

7200
by Walter M. May
the Woodstock
1884-1885



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METHOD and RULE
OF
PROCEEDING
UPON ALL
ELECTIONS,
POLLS and SCRUTINIES,
AT
COMMON HALLS,
AND
WARDMOTES
WITHIN THE
CITY of LONDON.

L O N D O N:

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M.DCC.XLIH.

THE
 METHOD and RULE
 OF
 PROCEEDING
 IN
 ELECTIONS
 OF
 MEMBERS
 OF
 PARLIAMENT
 IN
 THE
 COMMONS
 AND
 WARDMOTES
 OF
 THE
 CITY OF LONDON



Printed for J. Sturges, at the New-Castle, in St. Dun-
 stons Church-yard, 1744.
 M.DCCXLIV.

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TO THE
RIGHT WORSHIPFUL
Richard Hoare, Esq.
ALDERMAN
OF THE
CITY of LONDON.

SIR,
I Take the Liberty of introducing the following Treatise to the Publick under the Sanction of your Name, as it was begun at your Request and finish'd by your Assistance; in order that the Experience you gain'd at the several Elections in which you have been concern'd might be of general SERVICE to your Fellow Citizens upon the like Occasions; and since this was your immediate and only View, I hope the Observations I have made, and the Principles by which they are explain'd, will answer

the End of so generous a Design: Your Merit in every other Circumstance is so well known, as to render it unnecessary for me to offer any particular Testimony, either of your Integrity and Zeal to serve the Community as a Magistrate, or of your Good Sense, Good Nature, and every amiable Quality for which you are so universally beloved in private Life: but I must not however omit acknowledging the peculiar Happiness I have enjoy'd in the Continuance of a long and intimate Acquaintance, by the means of which I have been a Witness to such frequent Proofs of Your real Worth in every Instance, that I must always esteem it an Honour to be accounted, what I now sincerely profess myself,

Your obliged Friend,

and most obedient Servant,

W. M.

T H E R E is no *Privilege* the Citizens of *London* have more Reason to boast of, than that of *Choosing* their own Magistrates and Officers constituted to support their Civil Government; the *Method* and *Time* in which such Elections must be made, and the *Right* in general of Voting in such a Choice, are all prescrib'd by the By-Laws and Customs of the City, and regulated by the Act of 11 *Geo. I.* Chapter 18. So that nothing more seems to be required of a Person
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presiding

presiding at any Contest of this kind, than that he should, according to good Conscience and the best of his Understanding, determine the Votes of his Fellow Citizens, in the Manner directed by their own Laws, under the Regulations, and agreeable to the Construction of that Statute.

But altho' it is thus in *general* described to whom the Right of Voting shall belong, yet the particular Distinctions upon the *previous Duties* necessary to compleat that Right, are no Ways settled, or at least do not appear to be universally agreed upon: This possibly may be accounted for by every presiding Officer's claiming a Liberty of putting his own Construction upon each separate Qualification, either as he is inclinable to adhere to the strict Letter of the Law, or follow the more liberal Principles of Equity; the different Opinions that from hence have been form'd upon Points which so frequently come under Consideration, and the Contests which People have been tempted to raise by Reason of those Points being so unsettled, are Circumstances greatly lamented by all who regard the Ease and Quiet of their Fellow Citizens: Upon this Consideration, I was apprized, that it would not be an unacceptable

ceptable Offer, to propose some uniform *Method of Proceeding*, and *Rule of Judging*, upon the several Elections within the City of *London*. To execute this in a manner satisfactory to all Parties, which, if possible to be done, is my only Aim, I have been obliged to look back into the antient Usage and Custom of the City with Respect to the Choice of all the Publick Officers; I have duly examin'd the Statute before-mention'd of the late King, which was chiefly intended to regulate these Elections; and have directed myself by the Opinions of the most eminent Counsel upon the Construction of its several Clauses, and of All other Acts of Parliament any Ways relating thereto; I have moreover been assisted throughout the Work by the Gentleman to whom it is dedicated, and together with him consulted great Numbers of worthy Citizens of known *Abilities* and *Integrity*, who, perfectly understanding their own Constitution, and having been themselves personally concern'd in Disputes of this Nature, have afforded me such Intelligence from their own Experience, as ought above any other to be the most relied upon: The Result of all which I here make bold to publish, with hopes that it may be of some

Use to the Magistrates, Freemen, Liverymen, and Householders of this great City; having form'd my Judgment in every Instance free from all *party* Views, and without Prejudice in Favour of any kind of Opinions, but such as may tend to the most *impartial, just and equitable* Determination; and such surely ought all Determinations to be upon Disputes amongst Fellow Citizens concerning that valuable Right of Voting in the *Choice* of their *own* Officers.

It would be too tedious and unnecessary in this Place to enter into an Historical Detail of all the Alterations, which have been made in the Qualifications of the Freemen to vote at the different Elections within the City; Let it suffice to observe, that these Rights have been varied by their own implied *Consent* under the Authority of the *By-Laws* pass'd in *Common Council*, which were intended and ought to conclude all the Members of the Community; for altho' the Royal Charters confirming the Privileges of Elections were granted generally unto *all the Barons* of the City of *London*, as the *Citizens* were anciently stiled, yet when the Metropolis grew so numerous, that it became inconvenient and almost impracticable to carry on these Elections, and the other Business of
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the Corporation by the *general Assembly* of the *Freemen*, They, by their own *Petition* and *Assent*, as appears by an Ordinance pass'd so long ago, as in the 7th Year of K. *Richard II.* [a] devolved the Power to a select Number, nominated to be their *Common-Council*, chosen at first, and still continued to be chosen, by the *Freemen* Inhabitants, as Representatives of all the Citizens, with Power to make By-Laws, which By-Laws must of Course bind all the Citizens, whom the *Common-Council* so represent, even in Instances, where, for the sake of avoiding popular Disorder and Confusion, they have ordained, that such and such particular Officers shall be chosen by a selected

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Number,

[a] The Preamble to this Ordinance recites, that it was pass'd in the Presence of the *Lord Mayor*, *Aldermen*, and an *immense Community* of the honest Men of the City, &c. " who by the underwritten *Petitions* deliberating, " &c. That forasmuch as by Complaint made how divers times in the Councils used within the Hall and " Chambers of the *Guilthalde*, great Rumor and Peril " had been perceived, as well by *great Assemblies*, as " insufficient Persons deputed, and seeing that oftentimes " the Judgments of the said Councils were more by Clamour than Reason, &c. Thereupon it was ordain'd " by the *Mayor*, *Aldermen*; and *good Commons*, That every " Year the *Aldermen* be charged to assemble their *Wards* " to choose four of the most sufficient Persons that be in " their *Ward* to be of the *Common-Council*, &c.

Number, and not by the Community in general. [b]

Accordingly we may find it agreed by an Act of *Common-Council* pass'd in the 15th Year of *Edward IV.* That none but the Masters, Wardens and honest Men of the *several Mysteries* of the City, shall go to the *Guild-Hall* to the Election of *Lord Mayor, Sheriffs* and other *Officers* of the City; and several other Ordinances of a later Date here refer'd to [c] have limited the Right of Voting for the principal Officers at the respective *Wardmotes* to such *Freemen* only as are *Householders* within the Ward; All which are now confirm'd by the Act of Parliament of the 11th *George I.* Chap. 18. By which it is enacted, "that none
"shall Poll for *Mayor, Sheriffs* and other *Officers*
"to be chosen at the *Common Hall*, but those
"who

[b] This was solemnly determined by the Opinion and Resolutions of all the Judges met at *Serjeant's Inn* in *Michaelmas Term*, 40th and 41st of *Q. Elizabeth*. See *Coke's Reports*, l. 4. p. 77. entitled, the *Case of the Corporations*.

[c] See the Acts of *Common Council*. *October 26, 1692.* *Sir Thomas Stampe*, Mayor.—*September 20, 1711.* *Sir Gilbert Heathcote*, Mayor.—*December 6, 1712.* *Sir Richard Hoare*, Mayor.—*April 15, 1714.* *Sir Samuel Stanier*, Mayor.

* who shall swear, or affirm, that they are *Freemen* and *Liverymen*"; and "That the Right of Voting for *Aldermen* and *Common Council Men* in the several Wards of the City shall belong and appertain only to such *Freemen* as are *Householders*, paying *Scot* and bearing *Lot* as therein after is mention'd and required." Thus we perceive the Right of Election still remains in the *Freemen* of the City, but under such Restrictions and additional Qualifications, as have been thought requisite for the avoiding of all tumultuous Proceedings: These Qualifications therefore, as we now find them, we should endeavour to settle and establish in such a manner as may prevent all further and future Disturbances, for it is thro' the Want of a proper Explanation, that the Laws of Election within the City, like the unhappy Fate of many other Laws, are perverted to the mischievous Purposes, which they were intended to destroy, and frequent Controversies are created by the very Regulations which were design'd to put an End to all Disputes.

As to the Contentions, which upon these Occasions will necessarily arise between *Parties* of different Interests, they must be left to cool and subside, as the particular Reasons, which

created them, may in time be forgot, or other Circumstances happen, which may re-unite those who at such a Season appear in Opposition to one another; and since the *Candidates* must be supposed to recommend themselves only by their known Characters and publick Sentiments, it is to be wish'd no Attempts may ever be made to seduce by *other* Motives such of the Voters as are likely first to engage themselves thro' Principle and natural Inclination; I hope in the last Place it is unnecessary for me to add a general Caution to every *presiding Officer*, to keep himself clear from all Party and Personal Prejudice, to remain, if possible, unacquainted with the Merits of either Side, until they are proved in open Court, and not to seem concern'd in the Event any further than having a Regard to his own Character by making a *just* and *impartial* Decision.

It is well known, that the *Sheriffs* of *London* are the *presiding* Judges at the *Common Halls*, to which the Liverymen are summon'd for the Choice of Members of Parliament, and of Mayors, Sheriffs, Chamberlains, Bridge-Masters, and all other Officers there chosen for the City; and that at a *Wardmote* held for the Election of an Alderman, the *Lord Mayor*, or
his

his *Locum tenens*, is the *Presiding Officer*; and that every *Alderman*, or his Deputy, *presides* by Virtue of the Lord Mayor's Precept in his respective Ward, upon the Choice of Common-Council Men, and other Ward or Precinct Officers? And since nothing can contribute better to the right settling of these Elections than a calm and regular Proceeding therein, it will be proper first to point out in what manner They ought to be *proposed*.—How *carried on*.—And within what Time *finished*.—And then I shall venture to lay down the *Rules* and *Principles* collected from the best Authorities, by which he who *presides* may form his *Judgment* in making his final Declaration.

Those who have a Right to Vote, being summon'd and met at the Time and Place of Election, and Proclamation being made in the usual Form; the *Presiding Officer* is to proceed to take the Names of the Candidates, to put the Question distinctly upon each, and to make his Declaration of the Choice, as it shall appear.—First upon *holding up of Hands*.—In the next Place upon the *Poll*.—And lastly upon the *Scrutiny* of the Votes objected to.—These are the three usual Methods of Tryal, if required, before an Election can be determin'd within the

the City of *London*; which however must be supposed to be but *One* Election made at first upon the *Holding up of Hands*, the Poll and Scrutiny only suspending the Determination, until it appears who at last have the Majority of Legal Votes: And it must be observed, that the Method and Time in which an *Election*, *Poll* and *Scrutiny* must be carried on and finish'd at a *Common Hall*, and at a *Wardmote*, as also the legal Qualifications of Voting at each, are differently circumscribed, and must accordingly be distinctly consider'd.

I shall therefore beg Leave first to consider of the Elections made at the *Common Hall*, as this is the largest Assembly of the City compos'd of all the Liverymen summon'd to choose their principal Officers.

Frequent Dissentions have indeed formerly happen'd in adjusting the Rights of these popular Elections; wherein there have been Instances of the *Freemen* in general setting up their antient Claim to Vote in the Choice of their City Officers in Opposition to the sole Priviledge, which had, as before-mention'd, been vested in the *Liverymen*: And the *Liverymen* in their Turn have oppos'd the *Common-Council* in the Power, which that yet more select'd Number assumed

to excuse any Person from serving an Office to which he had been elected by the *Common Hall*: And at other Times the *Commonalty* have enter'd into higher Controversies with their *Chief Magistrates* in Respect of the Right formerly claim'd by the Lord Mayor to name one of the *Sheriffs* of the City for each Year without any Choice or Concurrence by the *Livery*: These Jealousies and Disputes we happily find have been by Degrees settled, and the separate Powers of each Body confirm'd under the Sanction of several Acts of *Common-Council*, by which all the Community as I observ'd before, must be concluded; and it is now establish'd by Custom, as well as Law, That the *Common-Hall* shall consist only of *Liverymen*, occasionally to be summon'd for the *Nomination* of two Aldermen, who have serv'd the Office of *Sheriff* to be the *Lord Mayor*, one of which is afterwards to be *chosen* by the *Court of Aldermen*. [d] And that the *Liverymen* themselves shall

[d] The antient Right of the Court of Aldermen to choose the Lord Mayor out of two Persons, which were to be nominated only by the Common-Hall, appears by an Ordinance passed the 31st of July, the 7th Richard II. whereby it is Enacted, That those who shall be summon'd to the Election of a Mayor, should make their Election of two.

shall elect both the Sheriffs, either out of the Court of Aldermen, or the Body of the Citizens as They shall think most proper, [e] reserving to the Lord Mayor the Priviledge of nominating a particular Number of Commoners, who unless they have before been excused by the Court of Aldermen, must be put up to be either elected or refus'd by the Common-Hall: [f] And lastly, it is the Liverymen only who have the Right of choosing the Members to sit in Parliament, the Chamberlain, Bridge-Masters, Auditors of Chamberlain's and Bridge-Masters Accounts, and other Officers of the City. [g]

I have two, &c. And when they shall have agreed, they and their Common Serjeant shall present their Names unto the Mayor and Aldermen, as antiently was done. Lib. H. f. 178. And in the same Year at a general Council held on Friday next before the Purification, &c. It was ordained, that from thenceforth none should be Mayor of the City before He should serve the Office of Sheriff. Lib. H. fol. 197.

[e] See the Act of Common Council, July 20, 1631, Ducey Mayor; and the Amendment made to it by another Act of June 25, 1694, Ashurst Mayor.

[f] As formerly the Mayor named one Sheriff, and the Liverymen chose the other, the present Method here described was by Way of Compromise agreed to by the Act of Common-Council, October 22. 1703. Sir Samuel Dashwood, Mayor.

[g] So settled with Respect to the Choice of Chamberlain, Bridge Masters, &c. by the Act of Common-Council, June 21, 7th William III. Sir Thomas Lane, Mayor.

I have already taken notice that the *Sheriffs* are to *Preside* at all these Elections made by the *Liverymen* summon'd to the *Common-Hall*, which Assemblies are to be held for the Choice of a Lord Mayor on (a) *Michaelmas Day*, or the (b) Day before, if it happens on a *Sunday*; and for the Election of (c) *Sheriffs*, (d) *Chamberlain*, *Bridge Masters*, &c. on *Midsummer-Day*, or the (e) *Morrow* after when that falls on a *Sunday*; but should a Lord Mayor happen to die within the *Year*, his Place must be (f) *immediately* supplied, because the very Name

[a] Act of Common-Council, 28th of *Henry VIII.* 1537.
Alleyne, Mayor.

[b] Act of Common-Council, 16th of *Sept.* 1698—
Pilkington, Mayor.

[c] Act of Common-Council, 20th *July*, 7 *Car. I.* 1631—
Ducey, Mayor.

[d] Act of Common-Council, 1st of *Aug.* 28 *Eliz.* 1586—
Dixie, Mayor.

[e] Act of Common-Council, 15th of *June*, 1694—
Asburff, Mayor.

[f] *N.B. Humpbrey Parsons*, Esq. died in his 2d Mayoralty, on *Saturday* the 21st of *March* 1740, and a *Common-Hall* was summon'd by an *Order of the Court of Aldermen*, to meet on the *Monday* next following, for the Election of a new Lord Mayor, when *Daniel Lambert*, Esq. was chosen. — *Sir Robert Godschall* died in his Mayoralty on *Saturday* the 26th of *June*, 1742, and a *Common-Hall* was by the like Authority summon'd, and met on the *Monday* following, and chose *George Heathcote*, Esq. in his room.

of the Corporation, *under the title of Mayor and Commonalty, and Citizens of the City of London*, must be supported by the Existence of such a Chief Head or Magistrate.

Thus also the Election of a new *Sheriff* upon the like Accident of the Death of either of them, must be made as soon after as possible, [g] for altho' They, as Officers of the City, appear in separate Capacities at *Guild-Hall*, and the Duty and Attendance of one may excuse the Duty and Attendance of the other, yet in *Middlesex* they are esteem'd in the Eye of the Law to be jointly together only as one *Sheriff*, and therefore the Office in that County is not compleat without their *joint* Authority; so likewise every Vacancy in all the other Offices of the City ought to be supplied within such time as may prevent any Inconvenience by the delay of publick Business; and to this purpose 'tis provided by an Act of *Common-Council*, pass'd the 27th of Nov. 1729, *Brocas* Mayor, That a Common-Hall shall be summon'd within *fourteen*

[g] 'Tis provided by the Act of Common-Council, 7 Car. I. *Ducey* Mayor, That if upon the Death of any Sheriff during his Shreivalty, or upon any other Occasion whatever, there be just Cause to make a new Election, the same shall be at such Time and Day as by the Lord Mayor and Court of Aldermen shall be appointed.

ten Days next after the Demise of any *Chamberlain*, for the Electing of another fit and able Person to supply such Vacancy.

Sudden Emergencies of this kind may possibly sometimes occasion such Contests and Disorders as shall for a while suspend the new Election, which however cannot now any ways affect the *Charter* or *general Franchise* of the City, since this Corporation under the Sanction of the Statute of the 2d of *William and Mary*, chap. viii. sect. 3. is ever to remain without any seizure or fore-judger of the said *Franchise*, for any Pretence of *Forfeiture* or *Misdemeanor* hereafter to be committed.

Upon all these Vacancies, happen when they will, the *Liverymen* in general, who live in the the City or the Suburbs and Out-parts, or wheresoever diffused and dispersed throughout the Kingdom, have a right to assemble and give their Votes for a new Choice at the *Guild-Hall* of *London*, pursuant to the *Summons* publickly notify'd for that Purpose.

This *Summons* has always been issued by a Precept from the *Lord Mayor*, who, as he convened the Court, so he likewise formerly claim'd a Right to *adjourn* or *dissolve* it when-

ever

ever he pleas'd, altho' the *Sheriffs* were allow'd to *preside* over the *intermediate* Proceedings; from whence many Disputes and Disturbances were created; either by an unnecessary Adjournment by the *Lord Mayor*, or the continuance of of the Assembly by the *Sheriffs*, after such an Adjournment. [b]

Whereupon an Act of *Common-Council* was pass'd on the 21st of *June*, in the 7th Year of King *William III.* Sir *Thomas Lane*, Mayor, for settling the Methods of *Calling*, *Adjourning*, and *Dissolving* the *Common-Halls* upon the several Elections of the *City Officers* therein mentioned; which Act, taking notice in the Preamble of the Disputes concerning such Rights and Powers to Call and Adjourn, &c. declares, "That for the preventing the like
" Mischiefs for the future, the Right of assembling
" *Common-Halls* for the Election of
" *Lord Mayors*, *Sheriffs*, and other Publick
" Officers for the City;" (out of which their *Members* of Parliament are to be excepted, as will be mentioned hereafter) "and the Power to

[b] See the Arguments upon this Point at the Tryal of the Information against *Thomas Pilkington* and *Samuel Shute*, Esqs. Sheriffs of the City, and others, for a Riot in 1683, 35 Car. II. State Trials, Vol. III. fol. 541.

“to dissolve the same after such Elections are
 “made and finished, and not otherwise, is
 “and ought to be in the *Lord Mayor* of the
 “City for the Time being.”

Upon which we must remark, that in the
 first Instance, there is no Power in the *Lord*
Mayor, but that of *Assembling* and then *Dissolving*
 the Court after such Elections are made and
 finished.

The next Clause of the Act therefore has
 ordained, “That whenever any Poll or Scrutiny
 “shall be demanded, or other Difficulty
 “arise, which may require an *Adjournment*,
 “that then the Right of Granting and Tak-
 “ing the Poll and Scrutiny, and *adjourning*
 “the Hall from time to time, till the same
 “be concluded, shall be in the *Sheriffs*.”

But since from hence it may happen, as the
 next Proviso takes notice, That the *two Sheriffs*,
 thus invested with a joint Authority, may have
 Disputes and Differences touching any Matter
 relating to the Adjournments, Polls or Scruti-
 nies, which might impede the compleating of
 them within the Times limited, Then and in
 such Case, the Acts directs, “That all such
 “differences shall be determined by the *Lord*
 “*Mayor*, and whatever Orders he makes

“ therein, shall be observed by the *Sheriffs*,
 “ or in default of their Compliance, he may
 “ proceed himself in Granting and Taking
 “ the Poll and Scrutiny, and in adjourn-
 “ ing the Hall untill all shall be finally
 “ concluded.”

Agreeable to this Establishment, it is now the
 Custom at all these Common Halls, for the
Lord Mayor to appear upon the *Hustings* attend-
 ed by the Aldermen together with the two
Sheriffs, and Proclamation being made by the
 Common Cryer for all Persons to draw near and
 attend their Summons, the Recorder and Com-
 mon Serjeant thereupon usually address them-
 selves to the Livery, and open the Business and
 Intent of the Meeting, after which His Lord-
 ship retires with the Aldermen, and leaves the
 Management of the *intermediate* Proceedings to
 the *Sheriffs*; and accordingly upon the Candi-
 dates being proposed, 'tis *They* who declare
 upon the Question; and if a *Poll* be demanded
 'tis *They* who appoint the Clerks to take it,
 and upon the Result, after a *Scrutiny* made,
 which is also submitted to *their* Judgment, 'tis
They that make the Declaration of the Ma-
 jority unto the *Lord Mayor*, who returning back
 certifies the Election to the *Common Hall* by the
 Recorder,

Recorder, and then the Court is dissolved by his Order.

But there is one Exception, as before-mentioned, to the contrary of this, with respect to the Election of the *Representatives* of the City to sit in *Parliament*, who seem not to be included in the general Description of the above Statute, as publick *City Officers*; but are chosen at a Common Hall met by Virtue of a Notice from the *Sheriffs* in pursuance of the Writ directed to them, in which Case the *Sheriffs* only are concerned in the Return, and have an exclusive Power given and specified by other Statutes, [1] to convene the Voters; to preside at the Poll; to adjourn from time to time; and to make the final Declaration; They therefore are solely the Masters of all these Proceedings, and the *Lord Mayor* has no Authority of interposing.

I thought it proper to premise all this, because Magistrates and presiding Officers cannot be guilty of a more fatal Error, than either disputing the settled Jurisdiction of *Others*, or assuming greater Powers to *Themselves* than

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what

[1] See 7 and 8 *William III.* cap. 25. and 1 *George I.* cap. 18.

what are admitted by the Laws of the Land, or the Constitution of their own Corporation.

Upon proceeding to the Election of a *Lord Mayor*, all the Aldermen under the Chair who have served the Office of Sheriffs are proposed in *Rotation*, two of which are to be returned by the Common Hall to the Court of Aldermen; and it has been the usual Custom of the Liverymen to nominate the *two Senior Aldermen* under the Chair, and the Court of Aldermen upon the like Example have usually elected the *Senior* of those two into the Office: But that each of them have a Right to deviate from this usual Method of Rotation, is what no one can dispute; the only Question is, How far the *Exercise* of that Right may be justified, when it is not founded on such Motives as have a real tendency to the *greater Dignity* and *better Government* of the Community in general?

In like manner, upon the Election of *Sheriffs*, all the *Aldermen* who have not served that Office, are first put up in their order of Seniority, but by whatever Laws these might have formerly claimed the Priority of being so elected, [i] yet

[i] There is a Memorandum in the Journal Book for the Year 1556, 3 & 4 *Phil.* and *Mary*, of an Act of Common-Council, said to have been pass'd on the 1st of *August*,

'tis certain the Liverymen at present are at Liberty to choose whom they think proper, either out of that Court, or of those nominated by the Lord Mayor that have not been excused; or any others that shall be proposed at the time of Election: This indeed is the true and proper Freedom of Election, which the Livery reserve to themselves upon this as well as that other Occasion of electing Members to sit in Parliament; altho' the Compliment is then also paid to the Court of *Aldermen* to put up each of their Names before any other Candidates are offered. — Such of the City Officers as are annually chosen, are

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seldom

setting forth that it was thereby agreed, "That no *Alderman* should serve the Office of *Sheriff* without his own free Will and Consent, before his *Ancients* and *Seniors*," &c. but the Authority of this is to be question'd, as there is no Record to be found in the Town Clerk's Office, of its ever having been Engros'd: However, if such a Law had been made, it must be understood now as repealed, by the general Clause of the subsequent Act of 20 *July*, 7 *Car. I.* *Ducey* Mayor; and as there is a Clause in this last mention'd Act, "That the Lord Mayor should not choose any *Commoner* into the Office of *Sheriff*, so long as there should then be an *Alderman* eligible to the said Office," the same is expressly Repealed by the Act of Common-Council, 25 *June* 1694, *Astburs*, Mayor; as also by the Act of 1703, Sir *Samuel Dashwood*, Mayor, by which the Power of the Lord Mayor, to choose any Person *Sheriff* is taken away from him, and vested solely in the Liverymen.

seldom opposed after the first Election, but are continued from year to year, excepting only the Auditors of the Chamberlain's and Bridge Masters Accounts, untill a Vacancy happens by Death or Resignation.

The Questions upon all these Elections are proposed by the Voice of the Common Cryer, and a *Declaration* is thereupon made in the first Instance by the order of the Sheriffs, according to their Judgment upon the appearance of Hands held up for each Candidate.

But if this *Declaration* upon the *View of Hands* be not satisfactory to the Parties against whom it is made, they have a Right to demand a *POLL*, which is the next and more certain Method of determining the Choice; to this purpose the 4th Section of 11 George I. chap. 18. hath directed, “ that upon all Elections of Citizens to
 “ serve in Parliament, and of Mayors, Sheriffs,
 “ and all and every other Officer to be chosen
 “ for the City by the Liverymen thereof, in Case
 “ a *Poll* be demanded by any of the *Candidates* or
 “ any *two* or more of the *Electors*, the presiding
 “ Officers shall begin the same on the *Day* it is
 “ demanded, or the *Day* following at farthest,
 “ unless that happen on a *Sunday*, and then the
 “ next *Day* after; and since the Preamble of this
 Section

Section declares the same to be Enacted, to the Intent that the *Poll* at all Elections within the City may be *expeditiously* taken, so it must be the Duty of every *presiding* Officer to be ready immediately to proceed thereon; and therefore the postponing and adjourning of it to the next Day after, ought only to be allow'd upon the joint Request of the contending Parties on both Sides.

The *Common-Hall* being accordingly continued or adjourned to the Time agreed upon, the Sheriffs, attended by their Secondaries, usually appoint such Clerks as are in equal Numbers recommended on the behalf of each of the Candidates to take the Poll, whom they Swear truly and indifferently to take the same, in the manner as directed by the Act; that is, [1] That they shall set down the Name of each Voter, and his place of Residence or Abode, and for whom he shall Poll; and to Poll no Person who shall not be Sworn, or being a Quaker, shall not affirm the purport of the Oath therein prescribed; and accordingly every Person before he be admitted to Poll must Swear or Affirm, " That he is a Freeman of *London*,
 " and a Liveryman of the Company of
 " and has been so for the Space

“ of twelve Kalendar Months, and that the
 “ Place of his Abode is at _____ in
 “ _____ and that he hath not Polled
 “ at that Election.”

And to this must be added, if required by any of the Candidates or two of the Electors, the Oaths of Allegiance, Supremacy and Abjuration, which Oaths the presiding Officers or their Clerks are impowered to administer, or upon their refusal or neglect to forfeit the Sum of 60 l. with Costs of Suit. [a]

It being thus directed by this Statute, " That
 " no Person shall *Poll* at such Elections, but
 " those who shall swear or affirm, That they are
 " both *Freemen* and *Liverymen*," it amounts to
 the same as if there had been an express *enabling*
 Clause that the *Right* of Voting at such Elect-
 ions should be limited to those only who are
Freemen and *Liverymen*; since it is immediately
 afterwards declared, That the *Vote* and *Poll* of
 every Person who shall refuse to take the said
 Oath, or affirm the Effect thereof, shall be
null and void, and as such rejected and disallow-
 ed.

In this manner the *Poll* is to be proceeded upon from day to day, untill it be finished, and which upon all Elections at a *Common-Hall*

[a] Sect. 2.

must

must be finish'd within *Seven Days*, exclusive of *Sundays*, after its Commencement. [a]

But here again, with respect to the Elections of the *Representatives* of the City, the *Sheriffs* ought to be apprised of what is further requir'd and directed by several other Acts of Parliament relating to the Duty of all Returning Officers; particularly that, [b] so soon as the Writ for such Election is deliver'd to them, or either of them, the *Date* of the Day on which it was received should be endorsed on the Back, and which at the very next Court of *Hastings* after its Receipt they must open and cause to be read, and immediately after take and subscribe the Oath directed by *Sect. 3.* of the 2d of *George II.* Chap. 24. By which they are to swear, "That they have not received any Sums of Money, Office, Place or Employment for making any Return, &c. And that they will return such Persons as shall to the best of their Judgments appear to have the Majority of legal Votes," which Oath the *Lord Mayor*, or in Case he be a *Candidate*, the *Senior Alderman* usually administers; and then it is They the *Sheriffs*, and not the *Lord Mayor*, who give publick Notice of the *Time* and

[a] *Sect. 4.* [b] See 7 and 8 *William III.* Chap. 25.

and Place of Election, to be proceeded upon within *Eight Days* after; at which appointed Time they are obliged, if requested by either of the Candidates, or two of the Electors, to administer the Oath of *Qualification* to any of the Candidates according to the 9th of *Queen Anne*, Chap. 5, Sect. 5. which extends to *London*, as well as to all other Corporate Towns in *England* not there excepted, which Oath, if taken, must be certify'd into Chancery or the King's Bench within three Months after; or if refused, the Election and Return of such Candidate will be void. And every *Voter* also at such Election, if it be demanded as above, must before he Polls take the Oath directed by the first Section of the above-mention'd Statute of the 2d of *George II.* purporting, " That
 " he hath not by himself or any other Person
 " taken any Sum of Money, Office, Place or
 " Employment, in order to give his Vote."
 I believe I need not enlarge any farther upon this particular Branch of the *Sheriffs* Duty, which, as it is only to be occasionally attended to, they, who may happen to preside on such an Occasion, may refer to the several Acts of Parliament, from whence I have transcribed the

the foregoing Directions, as also to what may hereafter be enacted by the same Authority, as the best and surest Guides for their Behaviour.

For the more due and orderly *carrying on* of every Election at the Common Halls, the Statute of the 11th of *George I.* has further directed, that upon the *Adjournment* of the Poll on each Day, the presiding Officers shall *seal up* the *Poll Books* with the Seals, and in the Presence of such respective Candidates, or Persons deputed by them, as shall desire the same, which Books are not to be open'd again, but in *their* Presence, and at the Time and Place of Meeting in Pursuance of the Adjournment.

Upon *finishing* the Poll, the Books must again be *seal'd up*, and within *two* Days after publickly open'd at the Place of Election, and the Numbers for each Candidate duly and truly cast up, which Numbers the presiding Officers, within *two* Days after such casting up, must publickly declare to the Electors at the Place of Election. [a]

But it must be observed, that tho' the Statute prescribes these several Days as the longest Time allow'd for taking the *Poll*, yet the *Candidates*, if they think fit, may, with the *Consent* of the *presiding* Officers, agree to close

it in less Time; as that the Books shall be shut up at the End of the third or fourth Day, or upon such an Hour of the Day; in which Case it will be necessary for them, who preside, to take great Precaution in their own Justification, and procure an Agreement in Writing sign'd by the Candidates, or two of their Voters on each Side, at what Hour the Poll shall begin and end on each Day, and when the same shall be finally concluded; after which, if either of them should decline and desire the Poll might be closed even sooner than at first agreed upon, yet it ought not to be complied with, unless *all* the Parties on both Sides consent in the same formal Manner to countermand and give up their former Agreement: And so likewise, tho' the presiding Officers may claim the Indulgence of the *two* Days allow'd them afterwards to make their Declaration, yet they may, and usually do, make it *immediately*, upon casting up the Numbers at the Time agreed upon, to shut up the Books; unless they be desir'd to suspend the same by any of the Candidates, who upon the View of a *Scrutiny* to be demanded, may want an Opportunity to prepare and nominate a sufficient Number of their Friends to be their Scrutineers; and

and this seems to be the Reason of granting so much time to the presiding Officers, even after casting up, before they shall be obliged to make their Declaration of the Numbers.

The *Poll* being thus closed, doth not yet we find determine the Election, but the Parties may from hence proceed to the ultimate Trial, by a SCRUTINY upon the Legality of the several Votes; and here the presiding Officers are not only to observe the *Method* and *Time* in which such Scrutiny must be carried on; but are at last to exercise a *judicial* Authority in allowing or disallowing the *Right* of the several Pollers against whom Objections are to be made.

A *Scrutiny*, if lawfully demanded, that is, by any of the Candidates, or two of the Electors, must be granted and proceeded upon, and the Candidates on each Side must nominate to the presiding Officer any Number of Persons qualify'd to Vote, not exceeding Six, to be their *Scrutineers*, whom they are then immediately to nominate, upon the Supposition of their being prepared so to do, by the Allowance of the Time for deferring the Declaration upon the Poll as above-mention'd for that Purpose.^[a]

This Demand of a Scrutiny is generally made, or at least must be granted as if made,

upon the *mutual* Request of both Sides, that he who has gain'd upon the Poll may have equal Liberty to object against the others, as well as defend his own Voters; and since both Parties must be supposed to enter jointly upon the Scrutiny, so consequently they ought jointly to bear all the Expence of the Proceeding thereon; accordingly upon their joint Charge and Request, the presiding Officers are directed to deliver unto each of them, within *Six* Days after their Demand of a Scrutiny, true *Copies* sign'd by themselves of the *Poll* taken. These ought to be presented unto all the Candidates at one and the *same* Time, that they may have equal Opportunity to find out whom to object against, and what Objections they may make and prove. And since all and every of the Scrutinies at these Elections must begin within *Ten* Days after such Delivery of the Copies of the Poll, the *Common Hall* must be *adjourn'd* to *that* 10th Day, from the Time on which the Scrutiny is demanded: And the Examination of the Merits must then be proceeded upon from Day to Day, (*Sundays* excepted) and be finish'd within *Fifteen* Days after the Commencement of the same, and within *Four* Days after, the Sheriffs must publicly declare

clare at the Place of such Election, which of the Candidates is or are duly elected, and the Number of *legal* Votes for each, appearing to them upon such *Scrutiny*.

From hence it appears, that in computing the several Periods of Time in which each Act is to be done; the Proceedings upon these Elections by the *Liverymen* may take up, including all the *Sundays*, near *Fifty* Days from the first Demand of a Poll to the last final Declaration.

In this Calculation there is one Circumstance I must beg Leave to take Notice of, which is the Repugnancy there seems to be between the *fix'd* Time appointed for the Admission of a Lord Mayor, and the yet *longer* Time beyond that, which is allow'd for his being elected into the Office; for the Citizens of *London* in Pursuance of their Charters, [a] "are to choose
" unto themselves a Mayor every Year, at
" the *End* of which he is to be amoved, and
" another substituted in his Room, or he may
" be retained, &c." And to this Purpose the Act of Common-Council, which has been before refer'd to, of 28th *Henry VIII.* *Alleyne*,
Mayor,

[a] Fourth Charter of King *John*, and 2d Charter of *Henry III.*

Mayor, directs, that the Liverymen should thenceforth be summon'd to the Common Hall on *Michaelmas Day* to return two fit and able Persons to the Court of Aldermen, one of which is there to be chosen, who on the Feast of *St. Simon and Jude*, being the 28th of *October* following, is to enter upon his Office, just as the Year of the former Magistrate is ended; but, if upon the Election of two to be return'd by the Liverymen on *Michaelmas Day*, a *Poll* and *Scrutiny* should be demanded, It may not be determin'd, according to the Time allow'd by the Act of Parliament, until some time after the *Expiration* of the Day, on which the Office is to become *Vacant*; for from *Michaelmas* to *St. Simon and Jude* is but *Twenty Nine* Days, whereas the *Scrutiny* may be spun out to near *Fifty* Days, so as to reach to the Middle of *November* before it is determin'd which two are return'd: During which Interval there will not be, strictly speaking, any *Lord Mayor* presiding over the City. Be this as it will, the *Sheriffs* must pursue the Directions of the Statute, and as the *Scrutiny* only suspends the Right of those nominated on the *Poll*, until it clearly appears, which two are return'd by the *Livery*, so the Person chosen

III upon

upon that Return by the *Court of Aldermen* must be supposed, as if *return'd* and *chosen* on the *first* Day, previous to the Expiration of the Office of the former Magistrate; consequently this doth not come under any of the Proviso's of 11 George I. Chap. 4. as if no Election were made, and there were a Necessity to reassemble or apply to the Court of *King's-Bench* for a *Mandamus* to proceed to another Choice: On the contrary, an Election being at *first* made, and the *Decision* of it only *suspended*, the Necessity of the Case must admit, that during such Interval, the *Father* of the City should preside, or rather, that the *former chief Magistrate* should hold over, not as in his *own Right*, but in *Right of him*, who shall appear at last to have been duly elected.

The Sheriffs are not only to be thus careful to *carry on* all their Proceedings within the due *Time*, but must attend to a yet much greater Concern in the Exercise of their *judicial Authority*; for the *Candidates* and *Scrutineers* being now met again in *Common-Hall* in Pursuance of the *Adjournment*, are to suggest their Objections *Vivâ Voce*, as the Names of the Voters are call'd over in the Court, and which are usually digested in an alphabetical Order for

D

that

that Purpose, and call'd over alternately on the Side of each Candidate; and the *Sheriffs* are to take Notice, That it is expressly order'd by the *Act of Common-Council of December 6, 1712*, Sir *Richard Hoare*, Mayor, " That at all such Elections of *Mayors*, *Sheriffs*, *Chamberlains* and other *Officers* of the City, " They, the *Sheriffs*," (to whom this Act declares the Right of Granting and Taking the Poll and Scrutiny at such Elections doth properly belong) " shall upon " full Hearing the Objections against any " Person voting, and the Answer made there- " to, or before they make their Return, openly and publickly declare in the Place where " the Scrutiny shall be made, whether the " Person so objected against hath a Right, and " is well entitled according to the Laws and " Customs of the City to vote at such Election, " or not, that so the Candidates contesting, " may know which of the Electors objected " against are allowed, and which of them are " not allowed in the said Election."

Here I hope to be pardon'd for presuming to advise all those who may sit as *presiding* Judges on such Disputes at *any Election* whatever within the City of *London*, to behave with Caution, Attention and Deliberation, to hear
both

both Sides with equal Patience, and not demean the Character they appear in by any unbecoming Expressions, or a Warmth of Zeal arising from any preconceiv'd Opinion, or from the Prejudice of Party, personal Friendship, or any other private Motive; but to determine every Point according to Equity and Conscience, and the Rules hereafter submitted upon the Merits and Circumstances of the Case, as they shall be proved in open Court: On the other hand, it must be recommended to the *Candidates* and *Scrutineers* to behave with Submission and due Deference, to state their Objections in as concise a Manner as possible, considering how short a time is allow'd for the Determination, and to submit each Point as it shall turn out upon the Evidence; for they should not be suffer'd by any means to hang and dwell upon their Arguments for the Purpose only of protracting the Scrutiny, and giving less Opportunity for the other Side to propose and make out their Objections.

In order therefore to point out the Objections, and settle the right Opinions, which ought to be form'd upon all Contests of this Nature, I beg leave first to offer the *Reason* and *Principles* on which the Right of Voting is to be con-

sider'd, and then to add, by Way of further Explanation, the several particular *Cases* on which any Doubts may arise, with the *Determination* they ought to receive; supposing, that whilst an Objection is stated on each Circumstance, the Voter is qualified in every other Respect.

In proceeding upon this Method, we must take Notice, that the first Qualification to be disputed on these Scrutinies is, whether the Voter, according to the Oath administer'd, is a *Freeman*, and a *Liveryman*; and was *so twelve Kalendar Months next before the Election*; which annex'd Condition, as to Time, must be construed to refer back only to the last antecedent of having been a *Liveryman* for so long a while; because the 14th Section, which is the Enacting Clause of the Statute with Regard to this Qualification, takes no Notice of the *Freedom*, but declares only, "That no Person shall have
 " a Title to vote, who has not been upon the
 " *Livery* for *Twelve Months* before;" and therefore if he, who has been upon the *Livery* of any Company for a Year, takes up his *Freedom* of the City at any time before the *Commencement* of the Election by *holding up of Hands*, it is sufficient; but then the Time of such
 Voters

Voters being upon the Livery must be twelve Months compleat from the *Date* of his being *enter'd* in the Company's Books, to the *Time* of the *Election* made as above, for if the twelve Months are not ended on or before the *first* Declaration, it will be a proper Objection against his Right of afterwards Voting on the Poll; for the Calculation of the Year must have Reference only to the Day in which the first Election and Declaration was made on the *View of Hands*; and therefore altho^e his Oath may be true, that at the Time of his *Polling* he had *then* been a Liveryman for twelve Months compleat, yet his Vote must be disallow'd upon stating the Case in the following Manner.

A—was admitted upon his Livery the 25th of *June*, and the Election for Sheriffs was on the 24th of the same Month, being *Midsummer Day* in the Year following, but a Poll being demanded, he did not vote untill the 26th, at which Time his Year was compleat.

B A D.

D 3

As

As the Evidence of one having been upon the Livery for so long a Space of Time, depends upon a Matter of Record, the Proof may at once appear by Recourse had to the Date of the Entry in the Books of the Company to which he belongs, and this Proof is the more easily made out, by Reason that by the 6th Clause of the same Act of Parliament of 11 *George I.* " The Lord Mayor upon the
 " Request of the Candidates, or their Agents,
 " is obliged, where a Scrutiny is demanded on
 " such Elections, to issue out his Precepts, re-
 " quiring the Masters and Wardens of the
 " respective Livery Companies to cause their
 " Clerks forthwith to return two Lists of all
 " their Liverymen, which the Clerks are
 " bound to do, in three Days Time, upon
 " Oath, and the same are then to be de-
 " liver'd to the Candidates or their Agents on
 " each Side."

Here then is a necessary *Caution* to be given to those, who at any Time may *transfer* themselves over from one Company to another; That they be careful, after having obtain'd from the Court of Aldermen their License to be translated, to *complete* that Translation, by applying to the Chamberlayne's Office to have it

it endorsed on the Copy, and afterwards enter'd and recorded in his Books, for if they should vote in their last Capacity, to which they were order'd to be translated, before the proper Record is made thereof, it will annul their Right, as tho' no Vote at all had been given; for Example, If *J. S.* formerly a *Cooper*, having gain'd his License to be transfer'd over to the *Vintner's* Company, should vote in *this* latter Capacity, without being compleated, by having his Name enter'd as above; the Objection will be, That there is no such Person as *J. S. Vintner*; and upon such Objection being made, it will be too late to shew, That his Name appears as a *Liveryman* in the Books of the former Company; because every Man's Right must abide by the Test of that Qualification upon which he tender'd his Vote, and was admitted: This therefore will be a right Objection when stated as followeth.

A—altho' he has been a *Liveryman* for more than twelve Months in one Company, yet Poll'd in the Name of another, to which by Consent of the Court of Aldermen and the two Companies he was to have been translated; but it doth not appear by the

proper Record, that such Translation was carried into Execution.

B A D:

In the next Place, it is further Enacted by the 14th Section of the said Statute of George I. " That neither shall any Persons have a
 " Title to vote, who shall not have paid their
 " Livery Fines; or who having paid the same,
 " shall receive All or Part of them back again,
 " or shall have had any Allowance in respect
 " thereof."

This Objection seems founded on good Reason and Policy, especially as the *Fines* to be admitted on the Livery of most of the Companies, are kept up at a high Price, estimated by the particular Advantages that are to be obtain'd, and amongst the rest this general Priviledge of being entitled to a *Vote* at the *Common Hall* of the City; to which it is proper none should be entitled, but such as are of sufficient Abilities to pay the Purchase, and consequently more likely to exercise it in a free and independent Manner. But to admit a Person upon the Livery *Gratis*, and by the Way as it were of Charity, is making the Priviledge too mean and cheap; besides, if this were allowed,

low'd, it is possible, that some might petition to be admitted with no other View than to serve the Purpose of an Election: To prevent therefore any Abuse, or other Means of evading the Intent of this Clause of the Statute, it is cautiously provided, " That the *receiving* the " *Fine* or *Part* of it back again, or even any *Allowance* in respect thereof," is in every Instance, in which it can be proved, equally and alike the same Disqualification, as the Non Payment thereof.

It is usual however for some Companies to accept of a promissary *Note* for the *Fine*, upon which, as I have been inform'd, they seldom allow more than *Six Months Credit*; if therefore it can be proved, that the Voter, who must have been *Twelve Months* upon the *Livery*, has refused or been unable to satisfy his *Note* upon a *Demand* made at the Time, or since it became due, he ought to be set aside for such Refusal and Omission, equally as if he had been *first* admitted without *Payment*, or any *Security* given; consequently then, if on the other hand a Satisfaction has been given on such a *Demand* any Time before the Election, it must be allow'd as equal to a *Payment* upon the *first* Admission; but if the Company, instead of making

ing such a Demand, have *cancell'd* the Note, and *forgiven* the Debt, it ought surely to be construed to create the same Disqualification, as the *receiving back the Fine*, or an *Allowance* in respect thereof: The chief Doubt therefore that may be raised upon this Circumstance is, where the Note still remains uncancell'd and unsatisfy'd, and at the same time there is no Proof of a *Demand* made for the Payment, nor any Presumption of a Refusal, whenever it shall be demanded; in which Case I should apprehend we ought to yield all reasonable Indulgence in Favour of the Right, and allow such a Security given, as equivalent to the Payment itself, since it must be supposed, when no Evidence is given to the contrary, that the Party has been all along, and still is willing and able to make good his Engagement, by which at least he now appears as a Person *bound* to pay his Admission Fine, and for which the Company can by Law enforce and obtain a Satisfaction: All these Circumstances, therefore upon a fair and reasonable Construction, may be determin'd in the following Manner.

A—was admitted on the Livery, but on account of his low Circumstances was excused

cused the usual Payment of a Fine, or Part thereof.

B A D.

B—paid his Fine upon Admission, but afterwards coming to decay, received the whole, or Part of it back again; or some Allowance has been made him on Account thereof.

B A D.

C—did not make an actual Payment of the Fine due upon his first Admission to the Livery, but gave his promissory Note for the same, payable at a future Day, which he has accordingly paid and satisfy'd before the Day of Election.

GOOD.

D—Gave his Note, but the Payment thereof, being demanded at the Time it became due, he refused, and has not yet satisfied.

B A D.

E—gave his Note, which the Company afterwards, in Consideration of his Circumstances, forgave and cancell'd.

B A D.

F—gave

TO F — gave a Note which is now unsatisfied,
no demand having hitherto been made,
but he remains still liable and willing to
make good the Payment.

GOOD.

I must beg the Liberty now to take notice of
one Objection, so far only as to shew that the
presiding Officers ought not to take any Cogni-
zance of it, since it is such as must of course be
determined by a legal Process; for as several
of the Companies and Mysteries within the City
of London are limited by their *Grants* and
Charters to admit only a particular number up-
on their Livery, so it has been urged by way of
a general Objection, that those who have been
admitted upon the Livery of any Company,
after the *Numbers* so prescribed by their Char-
ters were *complete*, ought all to be set aside;
now if we were to consider this, even upon its
Merits, How hard would it be for any One,
who, after being admitted upon a valuable
Consideration, should be thus personally affect-
ed by a Circumstance to which he must be sup-
posed to be an entire Stranger! How impossible
almost must it be, when the limited Number
may be exceeded by the admission of many at
one

one and the same time, to decide and distinguish which of them are to be disqualified as supernumerary! but a presiding Officer upon a Scrutiny is happily discharged from entering into these difficult Enquiries, for he has no Right to determine whether any Companies have exceeded their Numbers, nor any Authority to compel them to produce their Charters in order to convict themselves; but on the contrary, is solely bound by the Evidence which is directed to be given by the 6th Section of the Statute made for regulating these Elections, which I have recited before, [i] and whereby it is required that the Clerks of the several Companies shall return true Lists of their Liverymen upon Oath; it must therefore be taken for granted, that the Lists so returned upon Oath, do contain a true Account of all the Liverymen of their respective Companies, and upon this Presumption the presiding Officers must proceed to enquire, not how many ought to have been return'd, but whether those who are return'd, are properly qualified by the performance of the subsequent Duties required in order to entitle them to Vote at such Election.

In going on therefore to examine these farther Qualifications, I must in this place just observe,

[i] See page 38.

observe, That a Liveryman, in order to be entitled to a Vote at a *Wardmote* in the Choice of an Aldermen, &c. must be a *Freeman* and *Householder* within the Ward, paying Scot and bearing Lot, as I shall have occasion by and by to explain more particularly; but here it is not requisite, that even the *Liverymen* who reside in London, should be *Householders* and *liable* to the Rates that are to be levied therein; nor is it necessary that Those who are Householders and liable to be Rated, should therefore have been *charged* or have *paid* to All or Some, and particularly to the *Watch* and *Lamp*; For altho' a Deficiency in any of these Points, as must hereafter be Distinguish'd, will prove fatal Objections at a *Wardmote* upon the Election of *Aldermen* and *Common-Council-Men*, yet no such Objections are to be made at a *Common-Hall*, nor can the Right and Vote of a *Liveryman* be any ways impeach'd thereby.

But notwithstanding a *Liveryman*, even tho' he is a Householder, within the City, may be exempt from the above Objections, yet all such, I mean those who are *Householders within the City*, are subject to another, which may be urged against them in particular; and that is, the Objection which by the 14th Section of the
same

same Statute of 11 George I. may be made
 at *all* Elections within the City, against those
 “ Who have within two Years next before re-
 “ quested to be, and have been accordingly
 “ discharged from paying to the Rates and
 “ Taxes, which the Citizens of London, *In-*
 “ *habiting therein*, are liable unto;” but tho’
 this be an Objection to be made at *all* Elections,
 yet by the strictness of the Words, it must be
 confin’d and limited to be urged at a *Common-*
Hall, against such of the Liverymen only, as
 are Householders *within the City*, and so liable
 to the Rates and Assessments raised within the
 Jurisdiction thereof, as being *Citizens* of Lon-
 don and *Inhabitants therein*; for the Disqualifi-
 cation reaches no farther than to those who re-
 quest to be discharged from such Rates as the
 Citizens of London *Inhabiting therein* are liable
 unto; a Request therefore made by a Livery-
 man living elsewhere, to be discharged from
 any Tax to which he is liable, by being an In-
 habitant of that other District, ought not to
 be urged against him, as he does not come un-
 der the express Description of this disqualifying
 Clause; it may perhaps be deem’d a hardship
 to the Liverymen Householders within the City,
 to be thus liable to an Objection which those
 who

who live out of its Jurisdiction are exempted from ; But however, we must be guided upon this Point, by the general Principle, That every *disabling* Clause in a penal Act of Parliament, ought to be construed in the *strictest* Sense, and not carried any further than what the plain and express import of the Words will warrant and direct ; the Objections therefore upon this Head, must be thus confined and distinguish'd.

A—being a Liveryman and Householder within the City, hath within two Years next before the Election, requested to be, and hath accordingly been discharged from paying to all or some of the Rates, which he as a Citizen of London and Inhabiting therein, was liable unto.

BAD.

B—Is a Liveryman living out of the Jurisdiction of the City, and hath been discharged, upon his Request, from paying all or some of the Rates to which he was liable in that District, whereof he was an Inhabitant.

GOOD.

But

But lastly, there is one Objection which extends to *all* Liverymen and other Persons whatsoever, Voting at any Election within the City, and that is, "For having had and received
 " within two Years next before the Election
 " any Alms whatsoever:" Upon the proof of which Circumstance the Vote of every Person is to be declared *null* and *void*, according to the latter part of the 14th Section of the above-mentioned Statute; so that upon whatever Foundation, publick or private, or wheresoever a Charity is received in Town or Country, it must be determined a general Disqualification. This however, is a Circumstance which ought to be treated in the mildest manner, and allowed only upon the Proof that the Person charged with receiving the *Charity*, received it for mere *Relief*, and upon the very *Terms* so granted as a *Charity*; there are many Distinctions therefore necessary to be made upon this Point, and since they must all be equally taken into Consideration upon every other Election within the City, I shall beg leave to offer my Observations upon the whole, when this Objection is to be again taken notice of, upon my explaining the Methods of settling the several

E

Wardmote

WARDMOTE Elections for *Aldermen* and *Common-Council-Men*.

This is to be my next Attempt, and upon entering on the Subject, I find I shall be obliged to state many more particular Questions, and to enforce many longer Arguments towards bringing the Contests upon *these Elections* to a right and peaceable Conclusion, as the Oppositions therein happen to be more frequent, as well as more difficult to be decided.

The Election of all *Ward Officers* must be at a Court of *Wardmote*, held in the Nature of a *Court Leet*, by a Precept of the Lord Mayor as chief Lord and Steward, summoning, or directing the Alderman to summon the Inhabitants to attend at the Place and Time appointed for that purpose.

Any Citizen may be chosen an *Alderman* of a Ward, although he be not an *Inhabitant* thereof, for the several Acts of Common-Council [k] with respect to these Magistrates, require only that they should be able and sufficient Citizens and *Freemen*; if the Candidate therefore be *free* of the City and of sufficient Abilities, these are all

[k] See page 6, where all these Acts of Common-Council are refer'd to.

all the Qualifications that are directly prescribed to entitle him to the Right of being chosen into that high Office, in any Ward where there is a Vacancy, notwithstanding he may live in another part, or even out of the Walls of the City.

But it is expressly directed, that every *Common-Council-Man* shall be an *Inhabitant* of the Ward for which he serves, agreeable to the antient Ordinance of 7 *Richard II.* before-mentioned, by which a selected Common-Council was first established, and whereby it was agreed, “ That
 “ the Aldermen should every Year assemble
 “ their Wards, and by good Deliberation,
 “ cause them to choose four of the most sufficient Persons that are *in their Wards*, to be
 “ of their Common-Council;” which Number has since at several times been augmented in each Precinct, in proportion to the Encrease of its Inhabitants; and many Resolutions have thereupon been made in Common-Council to remove particular Persons from thence, for not being Inhabitants of the Ward for which they were elected: And at length a general Act was passed June 14, 1716, Sir *Charles Peers*, Mayor, whereby it is declared, “ That no Person shall
 “ be capable of being elected a Common-

“ Council-Man of a Ward, who at the time
 “ of Election is not a Householder therein.”
 In pursuance of all which, the Lord Mayor
 gives it annually in Charge to every Alderman,
 “ That he do cause such a fixed Number of
 “ the most sufficient, Honest and Discreet Men
 “ of his said Ward, to be for his said Ward of
 “ the Common-Council for the Year ensuing.

As the Common-Council was originally constituted out of the Body of the *Freemen* assembled in Common-Hall, and as the Common-Hall is now to consist of *Liverymen* as well as *Freemen*, it must be esteemed as proper at least, that the Common-Council-Men should also be *Freemen* and *Liverymen*, as well as *Inhabitants* of the City; since they not only pass Laws, which must bind all the rest, but frequently controul the Proceedings of the *Liverymen*, and do many Acts under the Notion and Authority of their being a selected part of the *Common-Hall*: But this I only mention with respect to its Propriety, for 'tis no where absolutely ordered, That the Inhabitants should be thus qualified, in order to be chosen into the Common-Council. [A]

The

[A] That the Common-Council-Men were in former Times usually chosen out of the *Liverymen* *Inhabitants*,

The Time settled for the Choice of the *annual* Ward and Precinct Officers is on *St. Thomas's Day*, or the Morrow after, if it happens on a *Sunday*; [m] and the Election of a new *Alderman* must be within *four* Days next, after the Death or Resignation of the former; which was prudently limited to be made within so short a Time, by the Act of Common-Council here refer'd to, [n] in order to prevent any Encrease of Expence, or the Continuance of Tumults which too frequently happen upon these Occasions.

The Court of *Wardmote* being opened by the presiding Officer, the *Candidates* may be either
 E 3 nominated

seems implied by the latter part of the Ordinance of 7 *Richard II.* whereby it is provided, "That the Mayor, for the Time being, shall not receive throughout the Town, of any Mystery for the Common-Council, more than eight Persons of a Mystery, although it happens that more than eight of one Mystery be presented and chosen." And further we may observe, that anciently all Persons of the same Crafts and Mysteries used to live together, in the principal Streets and Districts of the Wards, out of which it may be presumed the Common-Council were chosen; and even to this Time several of the Wards retain the Names of the Companies or Guilds that resided therein, as Cordwainers, Candlewick, Vintry, and Cornhill.

[m] By Act of Common-Council, September 28, 9 *Henry VIII.* *Exmerw*, Mayor.

[n] By Act of Common-Council, August 9, 1710—
Sir Samuel Gerrard, Mayor.

nominated by any of the Electors or propose themselves; but it is customary for the Inhabitants of the several *Precincts* in each Ward, to meet every Year sometime before *St. Thomas's Day*, in order to return a List of such Persons they think best qualified to serve their respective Offices, which Persons so returned by their Precinct Meetings, are of course put first in Nomination at the Wardmote in the order as the Precincts are ranged; after whom any other Candidates may be then added to either of the Precincts, in Opposition to all or any of those who are so returned.

But although the *Common-Council-Men* are thus divided and distinguished within their Wards as belonging to *particular Precincts*, yet with respect to the City they are elected, and must be declared to be elected as Officers and Representatives of the *Ward in general*; and therefore, that the Alderman may proceed without Confusion in such Elections, it will be best to propose the Candidates returned by every Precinct separate by themselves, and to add at the same time the Names of any other proper Persons who shall be moved for and seconded; and then after putting the Question on each of these Persons, to declare that such and such so
nominated

nominated or returned by the Precinct aforesaid, are duly elected Common-Council-Men of the *Ward*, and not Common-Council-Men of *such a Precinct*; and so to go on and propose the Questions and make the Declaration in like manner, on those who are nominated or returned by the next and every other Precinct; however, even after this, so long as the Ward-mote continues open, any other Candidate may, if he pleases, oppose himself to all and every of the Persons so before named and declared, and if the Majority of Hands shall appear more in Favour of him than of any other of the Candidates, he must be deemed duly elected, and being so elected must serve as a Common-Council-Man of the Ward in that particular Precinct, in which he who is set aside had been before nominated.

I must beg pardon for being yet a little farther minute in observing, that upon all these Elections, where there is no Opposition, the Question ought to be proposed both for and against each Name; and if the fewer number or no Hands are held up by any of the Electors, when the Question is put for their contrary Opinions, they thereby declare the Choice or Election for the Affirmative; but if there be an

Opposition, so that two or more are named for an Office, into which one only is to be chosen, then it need only to be demanded, That all those who are for the first Candidate named, should hold up their Hands, and so the same to be proposed separately on each of the others, and for whomsoever the Majority of Hands shall appear, must of course be declared duly elected.

If upon this Declaration first made on the *View of Hands*, a POLL be demanded, the presiding Officer must grant the same, and proceed thereon in pursuance of the directions of the Statute of 11 George I. chap. 18. on the very day, or next day after it is demanded, unless that be a *Sunday*, and appoint and swear in the Clerks to take the same, and *Seal and Open* the Books each Day in the *Presence* of the Candidates, &c. in like manner as before described to be necessary at the *Common-Hall Elections*. [o]

Every Person before he be admitted to *Poll*, must Swear, or being a Quaker must Affirm, "That he is a Freeman of London and an Householder in that Ward, and has not Poll'd at that Election;" every Voter therefore

[o] See page 38. and the Appendix N^o. 1. and N^o. 2.

fore should be cautioned, That he be sure, he is at least qualified so far as to be able to Swear to those Particulars, though there are many other Qualifications not express'd in the Oath; he ought I say to be apprised, that if he be a *Freeman* of a *Company* only, he does not come up to what is so plainly required, he ought to be a *Freeman of London*; That if he doth not absolutely *possess* and *occupy* a House or Part of a House within the Ward in his own Right, so as to be *Rated* thereto, he is no *Householder*, according to the Intent and Meaning of the Statute; and lastly he should not inadvertently *Poll* first at one Book and then at another; for if in either of the above Cases, he should be convicted of taking a false Oath, or should he procure or suborn another to take the same, he will incur and suffer the like Penalties, Forfeitures and Disabilities, as Persons convicted of willful and corrupt Perjury at Common Law are liable unto.

Whatever Person shall at such Elections refuse or neglect to take the above Oath, or being a Quaker affirm the Effect thereof, or shall refuse or neglect to take the Oaths of *Allegiance*, &c. (if required) His Vote and Poll is null and void, and the presiding Officer, and
his

his Clerks, are empower'd to administer all the said Oaths, or upon their Neglect or Refusal, they, for such Offence, are to forfeit 60 *l.* &c.

The Poll, being thus open'd and eommenc'd in due time, must be proceeded upon from Day to Day, and finish'd within *three* Days, exclusive of *Sundays*, and within *two* Days after the Numbers are to be duly cast up at the Place of Election, and within *two* Days after such casting up, the Numbers of the Votes or Polls for each Candidate are to be publickly declared; so that if the presiding Officer will take up all the time, which the Statute thus allows, the *Poll* at a *Wardmote*, and the Declaration thereon may possibly not be determin'd, untill the End of *Seven* Days.

But I must in this Place again observe, that tho' the Statute allows such a Proportion, as the farthest time to which a Poll may continue, yet upon Agreement by the Candidates, and Consent of the presiding Officer, it may be closed sooner; nor is he, who presides, bound to defer his Declaration, untill two Days after the Books are cast up; but may, if the Numbers are known, immediately declare, who have the Majority; but however in this he ought to pursue

pursue the same Caution, as before recommended to the Sheriffs at the Common Hall Elections, and insist on the Candidates, or two of the Voters for each, signing such Agreement in writing, at what Hour on each Day the Poll shall be begun, and when the whole shall be ended; from which he ought not on any Account to deviate, unless the Parties to such first Agreement consent to renounce it, in the same formal Manner under their Hands.

And here again be pleas'd to take Notice, that if upon the Election of *Common-Council Men*, a Poll should be demanded between several Candidates put up for *different* Precincts, the Alderman has no Right to confine the Opposition to the particular Precincts; but the Poll must be open'd and taken for their Election as for Officers of the *Ward* in general; and accordingly, whichever has the greatest Number upon the whole, must be admitted and sworn, without regarding in what *Precinct*, or against *whom* the particular Opposition was first of all form'd.

If the Declaration upon the Poll be not satisfactory, and a SCRUTINY thereupon is demanded, it must be granted jointly to both Sides,

as if mutually demanded in the manner as I suggested upon granting a Scrutiny at the Elections by the Liverymen; and a Number of *Scrutineers*, not exceeding *Six* on each Side, must also be nominated, to whom at the joint Costs and Expence of all the Candidates, the presiding Officer must within *Six* Days after deliver the Copies of the Poll Books, sign'd by himself, and which it is incumbent on him to deliver unto *All* the Candidates at one and the *same* time, that they may be equally prepared to start together in forming their Objections against the respective Voters.

The presiding Officer having thus far executed his Part, the Candidates, or their Scrutineers, within *Ten* Days next after the Receipt of the Copies of the Poll, are to deliver to him the Names in writing of the several Persons against whose Votes they object, with the particular Objections against each Name; and thereupon he again, within *three* Days then next following, is to deliver unto each of them one or more Copy or Copies of the Paper, containing such Names and Objections made on the other Side, and within *Ten* Days after, exclusive of *Sundays*, having fully heard both Sides, touching their Objections, he must
publickly

publicly declare at the Place of Election, the Number of legal Votes for each Candidate, and which of them is or are duly elected. [a]

But, upon these Elections, there are many Particulars to be carefully observed in the necessary Preparations before the Parties come to an Examination upon the Scrutiny, both as to the *Time*, in which the several Steps are to be taken, as also to the *Form* of drawing up and stating their several Objections.

They who have been declared upon the *Poll* will most likely be ready to take all Advantages to frustrate the subsequent Proceedings, and therefore it is an adviseable Caution for the other Candidates, who think they have the Merits upon the *Scrutiny*, not to run into any Hazard of Doubts, which may arise upon Points of Irregularity, relating to Time, Form, or any other Nicety of Law.

The Statute first directs, “ That the Scrutineers shall deliver in their Objections to the
“ presiding Officer *within* ten Days after the
“ Receipt of the Copy of the Poll Books; and
“ that he shall, *within* three Days next after,
“ deliver the Copies of such Objections to each
“ of the Candidates, and, *within* ten Days
“ then next following (exclusive of *Sundays*)

[a] See the Appendix N^o. 3.

“ openly

“ openly declare, which of the Candidates are
 “ duly elected.” From whence some Queries
 have been raised, whether these Words, *within
 so many Days* after the Receipt, or Delivery,
&c. shall be so construed, as to include the
 Days in which the Acts are directed to be
 done, or whether the Time is to be reckon'd
 exclusive of those Days: Now the Computation
 of Time in Law is in many Instances various
 and unsettled, but as to *Penal* Acts of Parlia-
 ment, Courts of Justice have generally put
 the most favourable Construction, so as to pre-
 vent the Parties incurring a Penalty, where
 there is any reasonable Foundation of Doubt;
 and therefore as this, to the present Purpose,
 is a Penal Statute, it is reasonable to yield the
 largest and most equitable Allowance, and to
exclude in the Calculation the several Days,
 from whence the Time is to be computed, by
 which means the Parties may have longer Op-
 portunity to prepare their Allegations, and
 avoid any Irregularity in other Matters.

The Scrutineers then must take Notice, that
 they are to deliver their Objections within *ten*
Days after the Day in which they received the
 Copies of the Poll, out of which *Sunday* not
 being excepted, if that should happen to be
 on

on the *Tenth* Day, the Objections must be then presented.

But suppose both Parties exceed the farthest Time, wherein they ought to deliver their Objections, does this set aside the *Scrutiny*, and leave the Election as it stood on the *Poll*? or suppose one Side proceed in the due Period, and the other exceed their Limits, can the presiding Officer accept the Objections that are tender'd *out of Time*, or must he refuse them, and stop all further Proceedings, or proceed *ex parte* upon those which are duly presented? These are Circumstances which have heretofore happen'd, and Questions, as above, have thereupon been started, and much canvass'd both in the City and at *Westminster-Hall*: But here again the Intent of the Statute, which prescribes these Rules and Orders must be our Guide, which we find has inflicted a Pecuniary Punishment on any Person or Persons, who shall offend against what is therein directed, and the Statute has expressly directed, that the Objections shall be deliver'd within *Ten* Days after the Receipt of the Copies of the Poll: If both Parties therefore have exceeded the Bounds, it must be deem'd such an Irregularity as may justify him, who is to preside in refusing to accept

cept their mutual Objections; but altho' he may in Strictness of Law be justify'd in such a Refusal, yet it cannot be recommended as fair and equitable so to vacate all Proceedings upon any slight Neglect, whilst there is sufficient Opportunity for both the Parties to receive the Copies, and go thro' their Examinations and Proofs; for should the presiding Officer thus drop the Scrutiny, it would give the Candidate, who had the Majority on the *Poll*, an Advantage obtain'd by his own Irregularity: However this Discretionary Power of going on with the Proceedings is recommended only, when *Both* the Parties have only exceeded a Day or two beyond the Time, and that owing perhaps to their mutual Agreement, or to their Inadvertency in not computing the intervening *Sunday* or *Sundays* in the Account, which Day, as I before observed, is not excepted in this Part of the Act. But if *One* of the Candidates should deliver in his Objections on the 10th Day, and none should be tender'd by the *other* Side, until the 11th or 12th, then there may be more Reason for the chief Magistrate to reject these, which were not offer'd within the due time with the first, because the Intent of the Statute seems to be, that the Objections on

both

both Sides should be presented within the time prescribed, in order that, as the *presiding Officer* is within three Days next after to deliver out Copies thereof, *both the Parties* might have equal Opportunity to prepare their respective Answers, and therefore it would be hard for him, who had pursued the Directions of the Act to lose the Benefit of his early Application, by Reason that the other Candidate had not produced his Objections, until a Day or two after, by which means the Scrutineers, who were first ready, must wait so much the longer before they could receive the Copies of those Objections, which were last delivered: In this Case therefore, as the Delinquents ought rather to suffer, the other Party have a Right to insist, that Cognisance be taken of such Objections only as were regularly presented; but notwithstanding the *presiding Officer* may in this Instance refuse the Objections, which came in too late, yet if he thinks fit to receive them, and delivers out Copies thereof time enough for the other Side to prepare their Answers, before the Day appointed for the Hearing, the Scrutiny must go on, and the Declaration made upon it will not be set aside on Account of such Irregularity; for supposing the Accep-

tance of the Objections to the Prejudice of the other Party, when so tender'd too late, should be deem'd even an Offence against the Statute, yet it is no where declared, that such Offence shall make void the Proceedings, and therefore the Party aggrieved, being left to his Remedy by a Prosecution for the Penalty, he who presides may enter upon the Examination, and after hearing both the Parties touching their Objections, his Declaration upon the Close of the Scrutiny, if just and equitable according to the Merits, shall decide the Election; but if *either* of the Parties should be so backward, as not to offer his Objections time enough for the other Side, to receive Copies thereof, and prepare their Answers by the Day fix'd for entering upon the *Examination*, then such Objections are absolutely to be protested against, so that if they have been so long postponed by the Candidate, who had the *inferiour* Number upon the *Poll*, the Determination ought of Course to go against him without further Proceeding; or if it be the Neglect of the other, who had the *Majority*, he must now be content to be proceeded against *ex parte*, and by being debar'd from urging any contrary Allegations, submit to the Numbers he can save by his own Defence.

Defence. Lastly, should *Both* the Candidates be so very tardy, as not to present their Objections within the due time before the Day appointed for the *Hearing*, the Presumption must be, that the *Scrutiny* is given up, and the Election must remain as it stood on the *Poll*, without any further Declaration.

On the other hand, the *presiding Officer* is to observe; that if either of the Parties, instead of being too dilatory, should be so early in their Application, as to offer their Objections *before* the 10th Day, he must accept them on whatever Day they are so offer'd; for the Statute doth not express, that the Objections shall be delivered precisely *on* the 10th Day, but only *within* ten Days next after the Receipt of the Copies of the Poll.

But then the same Clause directs, "That the
" *presiding Officer* thereupon shall, within *three*
" *Days next following*, give out to the other Candi-
" dates or Scrutineers one or more Copies of the
" Paper, containing such Names and Objections
" as aforesaid;" now altho' the Objections may be accepted at any time within the ten Days, yet I do not apprehend, that the *presiding Officer* is bound to proceed with equal Quickness, so as to deliver out Copies thereof within

three Days next after such *Acceptance* ; for were he to guide himself by this Construction of the Words, then, as each Party might give in their Objections at different times, so each would receive the Copies also at different times, which would consequently introduce great Confusion, and be attended with a manifest Disadvantage to those who were first prepared ; for Example, should the Scrutineers on one Side deliver their Objections to the Presiding Officer so soon as the *Fifth* Day after they received the Copy of the Poll Books, and he in Pursuance thereof should, within three Days *then next* following, give a Copy of those Objections to the other Party, who in the mean while should forbear delivering *his* Objections, until the *Tenth* Day ; in such Case this Candidate, who came last would receive a Copy of what, and against whom his Antagonists had objected, even before he had made out his own contrary Allegations, and by this means be a long time prepared to Answer, before the other Side are so much as apprised, what Numbers are intended to be objected against them : This shews, that it is rather the Duty of him who presides to adhere to some fix'd Rule of Notice, in order that both the Parties may receive

ceive the Copies of each other's Objections at one and the *same* time, that so the Proceedings may be carried on in a regular and even Course of Justice; and accordingly it seems to be the fairest Construction of this Clause, that he ought not to deliver out such Copies, untill the *third* Day next following the *Expiration* of the *Ten* Days, within which time the Objections were to be presented unto him; for altho' he may indiscriminately leave it to both the Candidates to proceed at their own Leisure, yet if he were to govern his Conduct by the Result of theirs, he would find, that, as they acted variously, he would be led into Perplexity and Confusion by following their different Steps.

But there is yet a further and a very material Point to be settled, which is entirely left to his own Appointment, for altho' the Statute directs, "that the presiding Officer shall, within
 "ten Days after he has delivered Copies of the
 "Objections, (having *heard* the Candidates *touch-*
 "*ing* such their *Objections*) declare, which of them
 "is duly elected;" yet there is no Day fix'd, when he is to enter upon such Examination, and *bear* the Parties *touching* their *Objections*: Now it must be supposed, that some time will be

required for the *Scrutiniers* on each Side to prepare their Answers; another Part of the time will be taken up in hearing publicly, what each have to say in their own Defence, and in Support of what they alledge against the others; and some Leisure must be allow'd to the *presiding Officer* to recollect the Proofs, and form his Judgment, so as to make a fair and just Decision: He therefore is here to use his own *discretionary Power*, and divide the ten Days into such Proportions as may best answer these several Purposes.

From hence the *presiding Officer* may learn how cautious he ought to be to act His Part duly and regularly, and not in the least to be led aside by the Behaviour or Importunity of either of the Candidates: If they are guilty of any particular Misconduct, it will not, as before observ'd, unless carried too far, make void the Proceedings; but the Misbehaviour of him, who *presides* over the whole, may give very unequal Advantages to one Side, so as to endanger the Right of Election, or even to stop both the Parties from coming to the Proof of their Merits; the Punishment for such a Misbehaviour in his Office, it is true, is according to the Statute, only the Forfeiture of 200 l.

But

But it must be supposed, that one, who is in such a Station in the City, as to *Preside* at these Elections, will make the Regard to his own Honour and Reputation in the World, a greater Tye to his good Behaviour, than the Dread of any Penalties from Informations or Prosecutions at Law; in order therefore, that such a one may act consistent to his Character, and the Duty of his Office, he ought to pursue the Directions of the Statute by a *certain* and *determinate* Method; and to that purpose, so soon as the *Scrutinners* are appointed, he should calculate and fix upon the several Periods of Time, in which he will give out Copies of the Poll Books; receive the Objections; deliver out Copies thereof; enter upon the Examination; and finish the Scrutiny; and thus notify in writing, what the particular Days are, in which he has settled each particular Act to be done, and, according to the fairest Computation, peremptorily appoint the *Sixth* Day after the Scrutiny is demanded, for the Candidates to receive the Copies of the Poll Books, and the *Tenth* Day at farthest next after such *sixth* Day for the Delivery of the Objections to him, and the *third* Day next after such *tenth* Day for his giving out Copies thereof to each, and then appoint

such Time for his *entring upon the Proofs*, as may be sufficient for his own Information, and satisfactory to both the contending Parties; and herein be pleased to take Notice, that the *Wardmote*, from the Close of the *Poll*, must be *adjourn'd* to *that particular Day*, which is so appointed for *entring upon*, and *bearing the Merits and Proofs touching the Objections*.

According to this Method of regulating the Time upon each Step and Process, the *POLL*, tho' it must be finish'd in *three Days*, may not be declared, untill the *Seventh*; and from thence to the *Declaration* upon the *SCRUTINY* will be about *Thirty Days* more, including all the intervening *Sundays*.

The contending Parties being thus prepared to proceed in *Time*, must have been equally diligent all the while in adjusting the *Form* of their Proceedings, and in getting good Intelligence against whom to object; and in procuring the proper Proofs and Evidence for the Support of what they intend to alledge.

To this Purpose, it is usual upon a nice and warm Contest for both Sides to print a List of the Names of those who voted against them, with an Advertisement at the Head, setting forth the several Disqualifications, and desiring
their

their Friends to detect all such Pollers in the said List as lye under any of those Disabilities, by which their Right of Voting may be call'd in Question.

The *Scrutineers* in the mean while are to inspect the several Ward and Parish Rate Books, and examine the Collectors thereof, in order to discover, who were deficient in not being *rated*, or in not *paying* to the full of what they ought, before the Time of Election; This is an Objection that most frequently occurs, and therefore by such an Enquiry, they not only pick out and detect the bad Pollers for the Candidate, whose Interest they oppose, but also find out which of their own Friends are liable to the like kind of Objection, and so prepare themselves accordingly to make their Defence.

After having fix'd upon the Number of Persons they intend to object to, it is adviseable to draw up and deliver to the presiding Officer a *general Objection* against each Poller, as if he lay under every Disqualification, altho' they intend to point out, upon the Hearing, but one or two in particular; for if only this or that Objection be given in, they must confine themselves to the Proof of *That* singly,
and

and be precluded from the Liberty of urging *any other*, which may perhaps be afterwards discover'd; because the Intent of delivering the Objections to the presiding Officer, as I mentioned before, is both for his Information, and also that he may apprise the other Side by the Delivery of the Copies, what are intended to be alledged against them, and consequently therefore he should not hear any other Matters discuss'd than what are so prepared by way of Notice and Information.

To this purpose I have taken the Liberty to submit a Specimen of the Form of a general Objection in the Appendix No. 12. collected from every Circumstance mentioned in the Statute, which either gives or takes away the Right of Voting; and which, according to the Direction of the Act, must be particularly written *against* each respective *Name*, to whose Vote they shall object; and therefore to write an Objection against the first Name only, and then by way of Abbreviation to put the Word *Ditto* to all that follow, may be deem'd no Objection at all as to them.

The Objections being delivered to the *presiding Officer*, it now comes to his Turn again to act with that equal Indifference as to avoid

at least any Objection being made to him; he therefore must begin to transcribe the Copies in the most private manner, and conceal whatever Neglects, Deficiencies or Irregularities either Side may have committed, as to Time, Form, or Method of Proceeding; for as he is to Judge between both, he is by no Means to inform one Party of the Steps which the other have taken; the Statute no where directs, that the Scrutineers should come together to present their Objections, or that they should both follow one and the same Method of drawing them up; each must be supposed to know what the Law requires, and if they fail in their Obedience, it must be at their own Peril; but he ought however to give Notice to both to come together, and receive the Exchange of their respective Objections; for as they sit out at one and the same Time to prepare those Objections upon the Receipt of the Copy of the Poll, so ought they to have equal Opportunity allowed for their mutual Defence.

And now the Candidates and Scrutineers being prepared and met at the Day and Place agreed upon, the *presiding* Officer is fully to hear such of the said Candidates as shall desire the same, or some Person appointed by them, touching

touching their Objections ; therefore upon a Request being made, any *other Person* it seems may be appointed to assist the Candidates and Scrutineers in speaking to and explaining the Points in Dispute ; but this is very seldom desired, since it must be supposed that such Scrutineers are always chosen, as are of sufficient Abilities to manage the Examinations and Proofs of their several Objections ; in which 'tis usual for each Party to proceed alternately against every Poller, in the order they are ranged in their several *Precincts* : And herein 'tis generally expected that the *presiding Officer* should publickly declare his Opinion upon each Objection, at the Time and in the Order they are proposed, and not reserve any Points, except such as are really doubtful to an after Consideration. This is enjoined to be observed upon the Elections at the *Common-Hall*, by the Act of Common-Council before cited, of Dec. 6, 1712, Sir *Richard Hoare*, Mayor ; [a] but however, since there is no express Order to this purpose, with respect to those who preside at a *Wardmote Scrutiny*, it must be left to their own Discretion, in which it cannot be doubted but that the most open and candid Behaviour will always be the most satisfactory.

[a] See Page 37.

Having thus far discuss'd the several Points to be settled with respect to the *Time* and *Manner* of Proceeding, we must now examine by what Rules of *Justice* or *Equity* the *Right* of Voting is to be determin'd upon the *Hearing* of every Objection.

To this purpose, I must offer several Observations on each Clause of the Statute made for Regulating these Elections, which in any manner affects the Rights of the Freemen Inhabitants of the City, with respect to the Choice of *Aldermen* and *Common-Council-Men*; and in doing this, I will pursue the same Method I have before laid down; first, Explaining in as clear a Manner as I am able, the *Reasons* and *Principles* upon which the Right of Voting is to be considered, and then subjoining to each Article the particular *Cases* on which any Doubts may arise, with the *Determinations* they ought to receive; for I cannot well be too explicit in this Attempt, which is intended to destroy all Advantages that may be taken from Obscurity or any kind of Uncertainty.

And first it must be observed, that by Section 7, of this Statute, 'tis expressly Enacted,
 “ That the Right of Election of Aldermen
 “ and Common-Council-Men for the several
 “ respective

“ respective Wards of the City, shall belong
 “ and appertain to Freemen of the said City,
 “ being Householdors and paying Scot, and
 “ bearing Lot when required, as therein is
 “ after-mentioned and provided, and to none
 “ other whatsoever.” But then the following
 Proviso's are not very clearly express'd, from a
 neglect of Accuracy in not connecting them
 more properly, for the *eighth* Clause and part
 of the *tenth* ought to be join'd together, the
 ninth being placed between by way of Paren-
 thesis, and the latter Part of the 10th Clause
 relating to *Partnerships*, should have stood se-
 parate by itself, as the subsequent one does re-
 lating to several *Inhabitants*, and then the whole
 might be read as follows.

Sect. 8th, “ Provided that the Houses of
 “ such Householdors be of the Value of 10 l.
 “ a Year, and that such Householdors be the
 “ sole Occupiers thereof, and have been in
 “ Possession of a House of such Value in the
 “ Ward, twelve Kalendar Months next before
 “ the Election.

“ And Provided, (as in Sect. 10th) That
 “ such Householder shall within the Space
 “ aforesaid have been Rated and Paid his Scot
 “ to all and singular the Rates, whereunto the
 “ Citizens

“ Citizens of London, Inhabiting therein, are
 “ or shall be liable unto, or 30 s. a Year, at
 “ least, to all or some of them.”

And then Section 9th should follow, in which the said Rates and Taxes are ascertained, and whereby 'tis declared, “ That in Case such
 “ Householder, has been charged to and paid
 “ all the said Rates, or 30 s. a Year to all or
 “ some of them, he then shall be deem'd and
 “ taken to be a Person paying Scot.

And here the latter part of the 10th Section should begin, “ That in Case any two or more
 “ Partners carry on a joint Trade in such
 “ House, such Partners paying their Scot in
 “ manner aforesaid, and bearing their respec-
 “ tive proper Lots, shall have Votes.

The Clauses being thus placed in a more natural and less confused Order, we may the more easily explain the distinct Qualifications described in each as necessary to entitle one to Vote; but it is great Pity that an Act intended, as declared in the Preamble, “ For settling the Right
 “ and Freedom of such Elections, and putting
 “ a stop to Controversies and Dissentions, and
 “ the ill Consequences of the same,” should be so drawn up, as to admit of and tend to different Consequences, on account of the variety of
 Constructions

Constructions which may be put upon the Meaning of each Clause; however I must again recommend, that in Disputes amongst *Fellow Citizens*, relating to their Right of choosing their *own Officers*, the most favourable Interpretation be put upon every doubtful Meaning; and I hope in proposing these Principles, to obtain the Concurrence of all such contending Parties, who have no other View by demanding a Scrutiny than *that* of detecting those, who really and in Conscience are not entitled to the Privilege of Voting.

The *first Qualification* to Vote at these Elections, according to antient Custom, as well as the last Act of Parliament, is that of being a *Freeman of the City of London*; so that on one Hand to be Free of a *Company* only, is not sufficient, nor is it necessary on the other, that that he should be on the *Livery*; nor is any *Time* limited how long he ought to have taken up his Freedom; for if he gain'd his Copy but the next Day, or Hour, or any Time before the Commencement of the Election, it will be sufficient; which Election is always supposed to be made upon the *Holding up of Hands*, as I have more than once mention'd before, the Poll and Scrutiny being only the subsequent Proceedings

ings thereon to adjust the Numbers and proper Qualifications, which, when adjusted and declar'd, have Reference back to the *first* Election, the Right of which is here to appertain to none but Persons at *that* time properly qualified as *Freemen*; for the *Poll* thereon can be demand'd only by the Candidates, or any two of the *Electors*, which implies those who had then a *Power* to *Elect*; and as none but such could demand a *Poll*, so none but such can have a *Right* to *Vote* at the *Poll*; and therefore a *Freedom* obtain'd *after* holding up of *Hands*, in order to entitle one to take the *Oath* upon *Polling*, "That he is then a *Freeman*," enables him indeed to *Swear* what is true, but doth not antedate his *Right* of *Voting*; the particular Cases therefore upon this Point, may be stated and answered in the following Manner.

A — is Free of a Company, but not Free of the City.

B A D!

B — was not made Free of the City untill the Day of Election, but was admitted before

G

fore the Declaration made at the Ward-
mote upon the View of Hands.

GOOD.

C— was admitted to his Freedom on the
same Day, but it was after the Declara-
tion made on the View of Hands, tho'
before the Poll.

BAD.

Such Freeman in the next Place, being ad-
mitted in due time, must by Sect. 8. "be a
"Householder—the sole Occupier—and in
"Possession of a House within the Ward, of
"10*l.* a year Value—for twelve Kalendar
"Months next before the Election."

Taking therefore these Qualifications into dis-
tinct Considerations, it must be observ'd, That
a *Householder* is understood to be him, who *In-
habits* and is *Rated* to such a House, whether he
be real Owner or Tenant thereof, or whether
he doth or doth not Diet or Lodge therein;
for provided he appears as the Inhabitant, so
as to be ready to answer every Demand and
submit to all Offices, Duties and Taxes, as the
reputed Owner of such House; and his Name
be so set down in the common Rate Books, he
then

then properly comes under the Name of a *Householder*, tho' he may not perhaps be a Housekeeper therein; insomuch that if a Citizen should happen to have two Houses in different Wards, making Use of one for the Conveniency of Trade only, and of the other for the Lodging of his Family, and is Rated to both and frequently attends at the one and the other, he must be deem'd a Householder in both the Wards, and so far consequently entitled to a Vote in each.

So also as to being the *sole Occupier* of a House, 'tis not necessary that *one* only with his Family should live in or belong to it, for whatever Number of Lodgers or Inmates there may be, yet he who is the Owner or Tenant of the whole, and who is *solely rated* thereto, is the only Person that ought to be look'd upon to be in the sole Occupation of it: On the contrary, if a Landlord is only in the Possession of a House, which he never lives in, tho' Rated thereto, but suffers a Stranger to be the sole Occupier thereof, who is not Taxed, although he is the Inhabitant; in such Cases neither the Owner, nor the Occupier, are any ways entitled to a Vote; for it must be distinguish'd in either Instance, that the being Rated to a

House and not in the Occupation of it, or being the Occupier and not Rated, are equally insufficient Qualifications.

Upon this Definition of such a Householder and Occupier of a House as is entitled to a Vote, the Determinations of the following Points are here submitted.

A — is Rated to a House and appears as the Inhabitant, and performs all Duties required, but he don't Diet or Lodge therein, as he makes Use of it chiefly for the Conveniency of Trade.

GOOD.

B — is the Occupier of a House, but submits to no Rates, the Landlord having undertook to Answer the same.

BAD.

C — the Landlord, as in the preceeding Case, is Rated, but suffers B to be solely in the Occupation of the House.

BAD.

D — solely Rents and is solely Taxed to a House, and Occupies one Part of it himself,

self, and the rest he Lets out to Lodgers
and Under-tenants.

GOOD.

The next Objection that follows, is for not being in the Possession of a House of the *Value* of 10 *l. per Annum*; now the Value of such a House must be to the true and real Amount of 10 *l.* a Year at least, estimated by the Price any one would give for it, or by the Proportion it is charged with in the Tax Books; or by the Rent that is actually paid for it: A House Occupied by the Owner himself, or a Tenant at Rent free, may yet be Computed, and Taxed, as being above the yearly Value of 10 *l.* but if less Rent than that be paid, it must be Valued at so much the less, whatever more it may be thought to be worth; for the *Rent* that is demanded ought to be in the first Instance the measure of its Value; unless it be proved that some other Consideration was given by the Tenant, as a *Fine* for Example paid on the Entrance, which may be computed as equivalent to a Rent of 10 *l.* so likewise if it is agreed to go at a greater annual Rent, and the Tenant is allowed back a Quarter's Payment on account of Repairs, whereby he will actually pay

that Year *less* than the 10 *l.* yet the Value of the House itself must not therefore be supposed to be diminished; for the Proof that such a one is a Householder of a House of such a Value, must arise from the Evidence of the Agreement to pay *so much* for it, whether that Rent be *actually* paid, or *from what time* soever it was to Commence, does not disprove the Qualification, provided such its annual Value was ascertained, and the Possession thereof delivered twelve Kalendar Months next before the Election; and provided it has been actually *Rated* and *Taxed* within that time to the Proportion of so much Rent: For after all, the chief Proof of the Value of a House, must arise from the Evidence of its being *Taxed* to such a Proportion, which may be soon known by reference to the Collectors of the Land-Tax, or rather in this Case, as it is a Ward Duty, by the Proof of what is paid to the *Lamp-Rate*, by Reason that the Statute of the 9th of his present Majesty, made for the better *enlightening the Streets of London*, has in Section 1st prescribed the different Proportions of the Rates and Assessments thereby to be raised on the Inhabitants; that is, that each and every House *under* the yearly Rent of 10 *l.* is not to be charged with a

Sum

Sum exceeding 7 s. a Year, but every House above the yearly Value of 10 l. is to be charged in a higher Proportion; consequently therefore as all the Houses are every Year charged by an occasional *Act of Common-Council*, in pursuance of the Direction of the above Statute, the *Proportion* of the *Rate* submitted to be paid by each Inhabitant, is a previous Declaration and Evidence of the *Rent* and *Value* of the House; and if it be not Taxed to the Proportion of a House of 10 l. a Year, the other Proofs of its being worth more, ought not to avail; for the Privilege of Voting is allow'd not merely on Account of paying so much Rent to a Landlord, but because the Community receives a Benefit by the Payment of such a Duty to the Ward.

A Person in the Possession of *two* Houses in the same Ward, which both together amount to 10 l. *per Annum*, tho' neither singly are so, ought in common Equity to have equal Allowance as the Occupier of one House of that Value; for thus the Statutes relating to the Poor are expounded, so as to allow the Payment of 6 l. a Year for one Tenement, and 4 l. for another, to be equivalent to one Rent of 10 l. for the purpose of gaining a Settlement; and therefore in this Case if it appear, that the Person does the *same* Duty and pays *equal* Rates

to one Inhabiting a House of 10 $\text{\textit{l}}$. a Year, that is sufficient, and is all that ought to be required towards gaining a Qualification; and this Clause ought more especially to have a liberal Construction in favour of a Right which was prior to the Act of Parliament. The several Cases therefore that arise upon this Point, may thus admit of a reasonable Allowance.

A — Lives in a House for which he pays no Rent, but it is Estimated and Taxed at more than 10 $\text{\textit{l}}$. **GOOD.**

B — agrees to Pay more than 10 $\text{\textit{l}}$. a Year, but by Reason of some Repairs wanting, his Landlord excuses him part of the Rent. **GOOD.**

C — Pays only 8 $\text{\textit{l}}$. a Year, but it is on account of an extraordinary Fine paid on Entrance, in lieu of a higher Rent, the House being actually worth more and Taxed to more than 10 $\text{\textit{l}}$. **GOOD.**

D — Pays less Rent than 10 $\text{\textit{l}}$. for his House, and is Taxed at less, and tho' he surmises 'tis worth more, yet proves no equivalent offered, by which it might be computed to be of greater Value. **BAD.**

E — Rents

E—Rents two Houses joining to each other ; or in different Parts of the Ward ; which both together are Taxed to the amount of 10 *l.* a Year, tho' neither of them singly are worth so much.

GOOD.

The *Time*, in which such Householder must be in the Possession of a House of such a Value, is the Space of *twelve Kalendar Months* ; which Term therefore must be compleat, and fully ended at or before the Day of Election upon the View of Hands : As the Computation of Kalendar Months is, from the first Day of *January*, to the first Day of *February*, and so on ; so likewise, if Possession be deliver'd in the Middle of any Month, the Space of Time must be reckon'd to the same Day of the same Month in the Year following.

It is not requisite, that a Person should continue all the while in the Possession of the *same* Habitation, for if he lives Part of the Year in one House, and then removes into another, both in the same Ward, and each upwards of *ten Pounds* a Year, if he has thus remained an *Inhabitant* of the *Ward* during the whole twelve Months, and been accountable for all Duties
and

and Services thereto belonging for each House, immediately from his leaving the one to the Instant of his Entrance into the other, without any Interruption or Break of Time, he then ought to be construed to be within the Words of the Statute, which only requires his having been actually in the Possession of *a House* (not of this or that particular House) in the Ward, wherein the Election is made for twelve Months before.

The usual Time, we know, for Tenants to enter, is on one of the Quarter Feast Days, tho' perhaps he may be admitted on some other intermediate Day, and even before the Time, from whence his Rent is to commence; in which Case it must be proved, that it was then an actual Delivery of the Possession, by giving up the Keys, &c. and not a bare License or Liberty to enter for the Sake of making Preparations against the Time, that he was to become Tenant; for the Words of the Statute are, That he must have *actually* been in the *Possession* for twelve Months before, so that his being a Householder must be computed from the Time only, that he was allow'd to be the actual Occupier of the House in his *own Right*, so as to become accountable for all Duties

ties and Services belonging to the same, in the Manner as here stated under the Circumstance of each particular Case.

A—enter'd into Possession the 22d of *December*; the Election for Common-Council Men, upon View of Hands, was declared on the 21st of the same Month, being St. *Thomas's* Day in the Year following; but as a Poll was demanded, he did not Poll untill the 22d, at which time his Year was compleat. [a]

B A D.

B—has liv'd for some time in one House within the Ward, and some time in another, so as to have been an Inhabitant of the Ward for a whole Year, and has answer'd all Duties for the same without Interruption.

GOOD.

C—enter'd into Possession by Consent of his Landlord on the 21st of *December*, being St.

[a] *Vide* parallel Case to be determined upon Elections at Common Hall, with respect to a Liveryman's not having been twelve Months compleat upon the Livery, &c. at the time of Election. page 37.

St. *Thomas's* Day, tho' he was not to commence paying of Rent, untill the 25th, being Christmas Day, and the Election was on St. *Thomas's* Day the Year following.

G O O D.

D—was to commence Tenant, as above, on Christmas Day, and tho' he had Leave by the former Tenant now and then to enter the Premises for to order Repairs, yet the actual Possession was not deliver'd to him by the Landlord, untill Christmas Day, and the Election was on St. *Thomas's* Day following.

B A D.

We are now to proceed to the next Head of Objections with Respect to the farther Qualifications that are necessary; for by Section the 7th of the same Statute, we find, That tho' one be a Householder of a House of ten Pounds a Year Value, for twelve Kalendar Months, he is not yet qualified, unless, according to this Proviso, " Such Householder, within the " Space aforesaid, shall have been rated and " charged, and contributed and paid his Scot " to

“ to all, and singular the Rates and Taxes
 “ (except annual Aids granted by Parliament)
 “ whereunto the Citizens of *London*, inhabit-
 “ ing therein, are, or shall be liable; or shall
 “ have paid in the whole to the said Rates
 “ and Taxes, or some of them, thirty Shil-
 “ lings a Year at least.”

We are first to observe, that these Rates
 and Taxes, to which such Householders are to
 contribute their Scot, are by the 9th Section
 enacted, “ to be a Rate to the *Church*, to
 “ the *Poor*, to the *Scavenger*, to the *Orphans*,
 “ to the Rates in *Lieu of Watch and Ward*, and
 “ to such *other* annual Rates, as the Citizens of
 “ *London* shall hereafter be liable unto:” But some
 of these enumerated Taxes, such as the *Orphans*
 Tax, and those in *Lieu of Watch and Ward*, have
 been laid aside for some Years, and others not
 there specified, such as the *Lamp* and *Watch* Rates,
 have since been established, and to which the
 Citizens of *London* are now liable.

As there are many different kinds of Quali-
 fications depending on this Clause of the Statute,
 so of Course it must give Occasion to the great-
 est Number of Objections; and herein appears
 the most remarkable Instance of that Variety
 of Construction, which I have more than once
 observ'd might be put on its Sense and Mean-
 ing;

ing; for, if we were to mind the *express* Direction, it might be made a Question, whether any Householder could be entitled to Vote, who had not been rated and charged, and contributed and paid to *All* the Rates therein specified, as well as those the Citizens are *now* liable unto; but some of the *Rates* therein mention'd, as I just now said, are not *now* existing; to which no one is rated, and to which no Citizen can be said to be liable: Others, such as the *Church Rate* and *Poor's Tax*, are sometimes *occasionally* laid aside in many particular Parishes, as not being wanted, and to which there is no Necessity for their being charg'd: To object therefore against a Man, for not doing, or not procuring to be done, what is not in his Power to do, or procure to be done, is so unreasonable, so contrary to Justice, and contrary to Common Sense, that no one can presume seriously to urge it, for such a strict Adherence to the Words would disqualify every Man from voting, and destroy the very Foundation of that Law, which was intended to regulate, and not take away, the Privilege of Election.

This strict kind of Construction has however it seems been admitted under one Consideration, that

that is, altho' a Voter had been rated and paid all he was liable unto, yet if his Payment did not amount to *thirty* Shillings in the whole, he was then set aside for not being rated to *All*, that is, for Example, for not being rated amongst the rest to the *Orphans* Tax; they, who have allow'd this Objection, heretofore, may perhaps have founded their Opinion upon the Suggestion of estimating the *thirty* Shillings, as the least Proportion that ought to be paid by Way of Purchase for the Priviledge of Voting; and therefore that all Advantages, even to a Strictness, ought to be taken against those, who contribute less than that Sum; and in this View they might think such a literal Construction seem'd to concur even with the equitable Intent of the Statute; but it has since been adjudged, that such a Determination is equally as unfair in this particular Consideration, as in the more general Instance, in which I first stated it; because the only just Medium is, That if a Person pay *less* than *thirty* Shillings, when he is really *liable* to pay *more*, he ought to be punished for neglecting to be rated, or refusing to pay, what was so his *Duty*, and in *his Power* to perform; but to punish a Man, who has paid, tho' *little*,

yet

yet *All* he was *liable unto*, or in his *Power*, merely because he has not done *more* than was in his *Power*, cannot surely be any Rule either in Justice or common Equity.

Should any such Objections therefore be made hereafter against one for not being charged to *every individual* Rate enumerated in the 9th Clause of the Statute, or for not being rated to the *Orphans* Tax; or even to the *Church* and *Poor*, if those Rates are not levied in the Precinct, or Parish wherein he lives; they ought to be rejected as inconsistent with that Reason and Equity, by which only this Part of the Statute can be enforced; and thus we must necessarily give up the Strictness of the Reading, in order to come at such a Meaning, as may have some Effect, and allow the Qualification to be sufficient, if such Person be rated, and has paid to all the Rates, which he and his Fellow Citizens, Inhabitants of the same Precinct, are liable unto.

The next Question then to be proposed is, whether, if he be not so *rated* to all, which at that time he is *liable* unto, will such an Omission destroy his Right, notwithstanding he has *paid* all he is *rated* to, or *thirty* Shillings in the whole to all, or some of them?

This

This in the first Instance may seem a proper Question, for it may be argued, That as Sect. 7th allows the Right of Voting only to Householders paying *Scot*, &c. and as Sect. 9th is to be so far construed, that they only shall be deem'd to have paid *Scot*, who have been *rated* or *charged*, and *contributed* or *paid* their *Scot* to *All* the Rates to which they are liable, or *thirty* Shillings a Year to *All* or *Some* of them: These Words, taken in this Sense, imply, that every one ought first to be *rated* to *All* the Taxes now in Being, and then in the next Place he must *pay* his *Scot* to *All*, that is, to as much as he is *charged* with; or at least he must pay so much of his *Scot* to all or some of them, as amounts to *thirty* Shillings; and from hence some would urge, that this Exception of *thirty* Shillings refers only to excuse the *Non-Payment* of the *Scot* to all, and that nothing can excuse the *not being rated* to all: But in Answer to this, the Method of Reasoning, which, upon a general View of the Words ought rather to prevail, is to admit the qualifying Proviso of paying *thirty* Shillings to extend as a saving for not being *rated* to all, as well as for not having *paid* to all; for the Words are conjunctive, that he

H

must

must be rated *and* contribute to all, or lose his Vote, except, which Exception must refer back to the whole, he doth pay the Sum of thirty Shillings by way of Satisfaction for not being so *rated*, or for not having so *contributed* to all, or some of the Taxes, to which he is liable: From hence therefore we are to estimate, that the Priviledge of Voting at these Elections in a Ward depends on the Measure and Proportion of what one pays to the Duties that are required; and the *thirty* Shillings seems to be the Medium, which, at least, is demanded of every one, who is taxed to so much or more, and if he satisfies to that Amount, he becomes so far a Purchaser of the Right, and redeems all former Omissions and Neglects, for not being fully *rated* to *All*, or for the *Non-Payment* of the *whole*; but if a Person, not being rated to the full, happens to pay *less* than the thirty Shillings, then indeed any such particular Omission will prove a fatal Objection.

It may therefore in general be determined, that he who has been *rated to* and *paid* all the Taxes to which he is *liable*, is sufficiently qualified, let his Payment amount to never so little; but if he has *not* been *rated* to all, tho' he has paid the whole he is *rated to*; or if he

has

has been rated to all, but *not* paid the whole, in either Case it is necessary, that he shall have made Amends by the Payment of thirty Shillings for the Default.

All these Distinctions will I hope more plainly appear by Stating a Case on each.

A—has not been rated to all which he is liable unto, but he has paid all he is rated unto, amounting to thirty Shillings for the whole.

GOOD.

B—has been rated to all but paid only to some, yet such Payment amounts to thirty Shillings.

GOOD.

C—has not been rated to all; nor paid to some to the Amount of thirty Shillings.

B A D.

D—has been rated to all, but not paid all, nor to some to the Amount of thirty Shillings.

B A D.

E—has been rated to all, and paid all, but nevertheless the whole doth not amount to thirty Shillings.

GOOD.

It is necessary now upon this Point to take more particular Notice of two Rates, to which the Citizens have been made liable by subsequent Statutes, I mean, that for *enlightning the Streets of London* by the 9th George II. Chap. 20. and that for *regulating the Watch* by the 10th George II. Chap. 22. In both which there are *Disabling* Clauses, [a] specially directing, “ That every Freeman being liable to the
“ said Rates and Assessments, and neglecting
“ and refusing, or desiring to be excused from
“ the *Payment* of the same, shall be under the
“ like Incapacity of Voting at Elections with-
“ in the said City, as any Persons are, who
“ do not pay their Scot and Lot to the several other yearly Rates, which the Citizens
“ of *London*, inhabiting therein, are liable
“ unto.” In the Clause relating to this Purpose in the last Statute for the Watch Rate, the Words (*the same being lawfully demanded*) are
inserted,

[a] See Clause 13 of the Lamp Act, and Clause 10 of the Watch Act. In the Appendix No. 11.

inserted, but that Proviso is omitted in the Lamp Act; however it is not express'd in either, That the Incapacity of Voting should proceed from *not being rated*, but only from the Neglect or Refusal of *Payment*; for altho' a Neglect or Refusal may imply a Demand being previously made, and such Demand could only be made in Consequence of an Assessment, yet it cannot be infer'd, from the Construction of these Statutes taken by themselves, that a Voter must at all Events be *rated* to both these Taxes; the Right of Voting therefore will still depend upon the Construction of 11 George I. reconciled to the Direction of these subsequent Acts of Parliament: And by thus taking the Meaning and Intention of all the Statutes together, it seems requisite, that if a Person be *rated* to the Lamp and Watch, and the same be demanded, he must *pay* those Taxes at all Events, so that if he has paid *thirty* Shillings in the whole to all the other Rates, yet the *Non-Payment* to the full of *both* of these, (if he be, I say, charged thereto, and the same be lawfully demanded) must be deem'd a Disqualification.

The peculiar Circumstance therefore, with Respect to the *Payment* of these two Rates, must be settled upon the following Terms.

A—has been tax'd to the Lamp and Watch, and all other Rates to which he is liable, and has paid to some to the Amount of thirty Shillings or more, but nevertheless he hath not paid to the *full* he was so charged withal to the *Lamp and Watch*.

B A D.

B—is not rated to Lamp and Watch, but he has been rated and paid to the other Rates, or some of them, to the Amount of thirty Shillings.

GOOD.

As this Disqualification arises from a Refusal to pay, after being rated and a *Demand* made, it is necessary, that he, who makes the Demand, be sufficiently authorised and empower'd to collect; accordingly the Act of the 10th of his present Majesty directs, [a] that the Assessments for the Payment of the *Watch* shall be collected quarterly by the Constables

for

[a] Sect. 2.

for each Precinct, or the Beadles of the Ward, as the *Alderman and Common-Council Men* of each Ward shall appoint, [a] and in Case of the Death or Refusal of the Person so appointed, they may direct any *other* Person in the Ward to collect in his Stead, and such other Person is bound and empowered by Virtue of that Order to demand the same: But the *Lamp Act* directs, [b] that the Collectors of that Duty shall be *elected* yearly at the Wardmotes, and no Provision is made, in Case such Collectors shall *refuse*, or shall happen to *die* in any Part of the Year, after being so chosen; and therefore a bare *Nomination* or *Appointment* of another in his Stead is not here sufficient, nor can there be, according to the Strictness of the Words, a new Election of another at any time, but on the Expiration of the Year, for which the former was chosen; and, who are so to be chosen in each Ward, by the literal Construction of this Clause, on *St. Thomas's Day* only, and therefore the Disqualification, with Regard to the Non-Payment of the *Lamp* Duty, must be left on this Latitude, so as to arise only from the Refusal to one *chosen* on *that Day* to collect the same; and from

H 4

hence

[a] Sect. 4.

[b] Sect. 9.

hence appears the necessity of always choosing two or more Persons out of the six, who by the Directions of the Act are to be annually returned out of the Inhabitants of the Ward, to be the Lamp Collectors for the Year ensuing; [a] and who are reciprocally empowered to collect in *any* District upon the Death or neglect of another; for altho' they are returned and nominated to serve in distinct *Precincts*, as before observed with respect to the Election of *Common-Council-Men*; yet this being done only for the sake of Order and Regulation, they are in Fact properly *Ward Officers*, and their Duty is general.

Thus also, when an Objection is made for *refusing* or *neglecting* to pay any of the other Rates whatsoever, it ought to be proved, that a *legal Demand* was made, and that also frequently repeated at a proper Time and Place; and that the same was always either absolutely denied, or such sham Excuses made as were clear Indications of a wilful Neglect; for it would be hard to urge the Objection against one for neglecting to Pay at the first Call, if it can be proved that he only postponed it to a more convenient Opportunity, and the Non-payment was owing entirely

[a] Sect. 9.

entirely to the Collector's neglect of making another Demand.

And upon this Point it may be necessary to enquire, even when the Rate appears to be fully satisfied, whether the same was actually paid by *him* who was *charged thereto*; for if the Person himself that has been Rated should have absolutely refused or neglected to discharge his Duty therein, and the Rates should be afterwards satisfied without any Knowledge of his own, but entirely at the Expence of a Stranger, just at the last Extremity, merely perhaps to serve the Turn of an Election; such Payment by another ought not to excuse his neglect, nor remove the Deficiency objected against him on that Account; for when the Qualification is not gained by *his own* submission to his Duty, he can have no pretence to the Priviledge that is annexed to it.

And therefore the Cases with regard to the *neglect* or *refusal* of paying either to the Lamp, Watch, or any other Rate, must be stated and determined according to the *Right* of the Person who makes the Demand, and the *Duty* of him who is to answer it; for Example,

A—being

A—being Rated to the Lamp, refused Payment because it was not Demanded by one, who had been legally chosen a Collector on St. Thomas's Day.

GOOD.

B—being Rated to the Watch refused Payment, because it was not Demanded by a Beadle chosen at a Wardmote; but it was demanded by one who was appointed by the Alderman and his Common-Council-Men in pursuance of the Power given for that Purpose by the Watch Act.

BAD.

C—being Rated and *frequently* called upon, either refused, or made such frivolous Excuses, as obliged the Collector to return him as one neglecting.

BAD.

D—being once called upon, desired the Collector to come again at a fixed and more convenient Time, but the Collector never thought fit to make any other Demand.

GOOD.

E—had

E—had refused or neglected to Pay his Rates, but a Stranger unknown to him satisfied the same upon the expectation of a contested Election.

B A D.

It is not requisite that he who is in Possession of a House and Rated thereto, should prove that he himself discharges on *his own Account* the Rates to which it is liable; for probably in some Instances the *Landlord* may agree to reimburse him; and 'tis well known that the *Clerk* of a Company, living in the *Hall* of the *Company*, places the Charges of the Scot to the Account of his Masters; notwithstanding which, if *his Name* is set down as the Person on whom the Demand is to be made, he must be deemed as the immediate responsible Person, and in Case of neglect or refusal, the Assessment must be levied on *him* and *his Goods*: Consequently therefore, he who is liable to be punished for any particular Disobedience, ought to enjoy the Right that is annexed to the compliance with the Demand.

The next material Doubt to be here settled, is, with respect to the *Times* in which the Rates and Payments ought to be made; and the difficulty

Difficulty as to this Point, is, that the first Part
 of the 10th Section makes it a Proviso, " That
 " such Householder within the Space aforesaid
 " shall have been Rated and Paid to all, or
 " have paid 30 s. a Year for the whole;"
 which Words, *within the Space aforesaid*, that
 is, within the Year before, ought not strictly
 to imply, that the Householder must have been
 charged to such Rates during *all* such time,
 but rather that it is sufficient, if he have paid
 the whole or 30 s. at least, for the whole of
 what the House is charged withal, altho' he
 himself commenced being Rated thereto only
within such Time; so that it is not requisite for
 one to have been charged to every preceeding
 quarterly or half yearly Assessment, for it may
 happen in many Instances, that the Name of a
 Householder cannot be enter'd in the common
 Rate Books until a half, or even a Year after
 he has become an Inhabitant, in which Case he
 must nevertheless be deem'd a Purchaser of his
 Qualification, if he has paid all or to the
 amount of 30 s. for the whole, altho' he has
 been Rated never so little a while; because the
 Privilege of a Vote is granted, first for having
lived twelve Months compleat within the Ward,
 and in the next place for having also, *during*
that

that time, contributed *his Scot* to the common Expende; for which reason 'tis enough, if he at some time or other, *within that Space*, has been Rated, and then paid so much as shall be deem'd his *Scot*, that is, the Satisfaction due *for the whole Year's Assessment*: And therefore, since the Rate Books are made out only at particular allotted times, when the Names of the new Inhabitants are inserted in the room of the former Occupiers of the Houses; and since for that Reason it may be impossible for a New-Comer to be set down immediately upon his first entrance into Possession, the Construction of this part of the Clause must be suited to the common Practice and the Necessity of the Case, and be admitted in the following manner.

A—entered into Possession of a House, and commenced being an Inhabitant of the Ward twelve Months ago, and has paid within that time all that the House was liable unto, or at least 30s. for the whole, but he was not Rated or Charged until about six Months past, or is not as yet Rated by his own Name.

GOOD.

Every

Every Inhabitant however ought to be careful, that he be charged in *due time*, and to the *full* of what he is liable unto; for if he be *not* rated, or rated *too little*, that is, as a Tenant of a House under 10 *l.* a Year, when he actually pays more Rent; he then has as good a Foundation for appealing, as if he had been rated *too high*; nay, there is an express Direction in the 13th Clause of the Statute for him to appeal to the Court of Aldermen, for any Breach or Neglect of Duty committed by any Officer relating to the Rates and Assessments; for it may happen, that the Name of a Person may be wrongfully charg'd, or accidentally omitted, and so subject his Right of Voting to be called in Question; but in such Case, if the Party shall prove by sufficient Witnesses, that he hath been the Occupier of a House chargeable to that Duty, and thought himself rated thereto, and was always ready to pay all Demands that were made, then surely the Omission in the Collector's Book should not affect him, but he ought to be allowed to bring Evidence against it, to prove, that the Deficiency did not arise from his *own* Neglect or Refusal.

This

This however must wholly depend upon the Nature of the Proof, and the Circumstance of the Case; for on the other hand, if one be apprised, that he is not rated at all, or not to his full Proportion, and chooses to take no Notice of it on purpose to save the Payment, he, who would thus keep himself from bearing an equal Burthen with his Neighbours, ought to be deprived from enjoying an equal Priviledge.

Thus also with Regard to the *Payment* of the Rates, *within the Space aforesaid*, it ought to be enquired, whether the *Scot* of the Person so rated in due time, was also *paid* within the due time, that is, before the Election, for a subsequent Discharge of the Duties, after the Declaration made on View of Hands, tho' before the Poll or Scrutiny, will no more add a Qualification, than a Freedom of the City taken up after such Election, as before explained in Page 81. To prevent therefore such *after Payments*, being clandestinely made, it will always be proper, so soon as the Election is declared, and a Poll demanded, and a Scrutiny likely to ensue, that the *Rate Books* be all ordered into the Hands of the *presiding Officer*, or some other indifferent Person, who
 should

should be obliged not to suffer any Additions or Alterations to be made, and to which none but the Scrutineers on both Sides should have Recourse to settle their Objections thereby; and the Right of each Voter, with Respect to his being charged, or having paid his Rates, should be determined by the Evidence of those Books in the State and Condition they appear'd immediately before the Election was first declared, with an Exception or Allowance, as I have just before said, to those, who can by other Witnesses prove the Discharge of their Duty, in Case it should happen thro' Negligence of the Collector, that their Names be not properly set down, nor their Payments recorded by a sufficient Number of Marks usually made to signify the same.

But here the 12th Section of the Statute may properly enough be connected to this, as it comes in by Way of Exception to it, and which provides, " That nothing from hence
 " shall be construed to oblige Persons to pay
 " any Scot, or bear any Lot, from the doing
 " of which they were *exempted* by Act of
 " Parliament, Charter, or Writ of Priviledge:"
 All those therefore, who were exempted as
 above from serving their Lot to all Ward
 Offices,

Offices, and amongst the rest to that of *Watch* and *Ward*, presumed formerly so far on that Pretence, as to insist upon their not paying their Scot to the Rates, which were made in *Lieu* of such *personal Service*; but since the Act of the 10th of his present Majesty has discharged that former Tax, and imposed a new one for the *Regulation of the Nightly Watch* within the City, they, and all others, even *Constables*, who do the Duty, are rated, and must pay to the Charge of it, equally as to all other Taxes; for if a Constable be rated, and does not pay his *personal Service*, can be no Excuse, because keeping of Watch is now become a Duty over and above the paying for the Regulation of it.

It is customary indeed in some Wards not to charge such a Person to that Rate, but the Word *Constable* is wrote opposite to his Name in the Collector's Book, in the Room of the Sum, to which he ought to be rated, in order to signify an Excuse on the Account of the Merit of his *Serving* the Office: But even this, I doubt, cannot in Strictness be admitted as a Plea in Mitigation, or Excuse of Non-Payment, for every one is in general to be rated to all the Taxes, which *his Fellow Citizens* are

liable unto, without any Exception to *this* or *that* Office: However, if a Constable's not being rated is owing to the Duty he is to perform, according to the Agreement and general Custom of the Precinct, such an Excuse, as it takes off the Imputation of his own Neglect and Refusal, may be admitted; but this is not to be extended so far as to omit the Rate on account of one's being only nominally chosen, whilst he hires another to do the Duty in his Stead, for the Excuse cannot in Conscience be allowed on any other Consideration than that of a real Personal Service; the Objections therefore proposed on this Head must be answer'd as follows.

A—was rated to the Watch, but refused to pay it on account that he had personally served the Office of Constable for that Year, but it did not appear, that the Parish ever excused the Rate on that Account.

B A D.

B—was rated to the Watch, and refused for the same Reason as above, and proved, that it was the constant Custom of his Precinct

Precinct to admit of Service, in Lieu of Payment to that particular Rate.

GOOD.

C—was nominally chosen Constable, and procured another to serve in his Room, and yet on the Pretence of such Custom as above, refused Payment of the Watch Rate.

BAD.

There may be other particular Circumstances, which may be considered in such an equitable Light as to excuse a Deficiency in one Point, upon Proof of a Compliance in another, as where a Person shall have neglected or refused the Payment of the Rates laid on a Tenement that lies *empty* and *unoccupied*, whilst he himself lives in another House within the Ward, for which he has also been *charged* and readily *paid*; in which Case the Vote, which he gave, must be supposed to be claimed in Right of the House that has satisfied all the Demands, and as to the other, he ought to be excused as one not liable.

Thus the chief Weight of an Objection must in all Cases lie against one who is *liable*,

and yet neglects or refuses to perform any particular Branch of his Duty upon a lawful and proper Demand, and from hence we must proceed to the Consideration of the next *Qualification* necessary to entitle one to a Vote, for a Householder being rated, and paying Scot, is also to perform the further Obligation of " Bearing his Lot, when required : " *Bearing of Lot*, being not explained in the Statute, [a] is generally understood to signify the Serving of all or some of the *Ward* Offices; such as *Constable*, *Lamp Collector*, *Scavenger*, *Inquest Man*, &c. And the Proviso (*when required*) must mean, when lawfully *elected* thereto at a *Ward-mote* held for that purpose; from whence it must be understood, that altho' one is obliged to pay his Scot *annually*, yet it is not requisite, that he should have borne his Lot in any Particular; because this is a *Conditional* Duty to be performed only *when required*, which of some may never be demanded, and for which others are *allowed* to pay a *Fine* in full Consideration for all Priviledges that may arise by personal Service; and, if such usual *Fine* be paid down upon Nomination, or after Election, it is admitted to be the same as if the Service itself had

[a] Sect. 8.

had been performed ; or if one begs to be excused only for a while on Account of some present Inconvenience, and gives Assurance of his Intention and Readiness to serve at another time, such Request to decline only to a farther Day, being granted and allowed by the Electors, ought not to be deem'd a Neglect or Refusal to serve ; so that the only Circumstance that can disqualify a Person in this Case, is the Proof of an *absolute Refusal*, or *wilful Neglect* to execute the Office he is elected to, and then surely he who thus declines the Burthen of his own Duty, ought not to have the Right of Voting for another to perform it in his Room.

Upon these Considerations the Cases upon this Point are to be determined as follows.

A—was elected Constable, and by way of Excuse for declining the Personal Service, was admitted to fine.

GOOD,

B—was chosen Lamp Collector, and tho' he did not absolutely refuse ever serving the Office, yet for the present desired to be excused, and accordingly was upon

his Promise to serve the same at another Time.

GOOD.

C—was elected Scavenger, which Duty he refused to comply with, and totally neglected.

B A D.

Here again the 12th Section of the Statute must be taken into Consideration, which provides, “ That no Persons shall bear any Lot, “ from which they are exempted by Act of “ Parliament, Charter, or Writ of Priviledge.” This perhaps with Respect to *Bearing of Lot* was intended as a saving Clause to Surgeons, Apothecaries, Attorneys, &c. who claim the Priviledge of being excused from any Attendance upon the Ward Offices, by reason of their other necessary Avocations.

Here we may also take Notice of the Act of Common-Council, *August 31, 19th James I. Jones* Mayor, by which it is provided, “ That “ if such Persons as have been chosen Common- “ Council-Men of the City shall alter their Habitations from the Ward where they were so “ chosen to another Ward, that then they shall “ not

“ not be chosen in that second Ward to the in-
 “ feriour Place of Scavenger, or Constable,
 “ nor be returned by the Wardmote Inquest to
 “ be of the Grand and Petty Juries, if there be
 “ other able and sufficient Men to supply those
 “ Places and Services.”

So likewise the Act of Parliament of 10
 and 11 *William III.* Chap. 23. discharges all
 Persons from Parish and Ward Offices, who
 have a *Certificate* of their having apprehended
 and convicted any one guilty of the *Felonies*
 therein described; which *Certificate* may be
 also once assigned over by them to any other
 Person: But it must be observed, That this
 must be a *Certificate* of convicting only *such*
Felons, “ as by *Night*, or by *Day*, privately
 “ steal Goods of the Value of Five Shillings,
 “ out of any Shop, Warehouse, Coach-house,
 “ or Stable;” for the Statute mentions no
 other Species of Felony: And it further pro-
 vides, “ That such *Certificate* shall be a Pri-
 “ viledge only in *that Ward*, wherein the Fe-
 “ lony was committed, and that if the same
 “ be *once* made use of, it shall not then *after-*
 “ *wards* exempt any other.”

Whenever therefore such Priviledge of Ex-
 emption is pleaded, it must be admitted so

far as it shall prove to be within the plain Intent of the *Writ, Charter, or Act of Parliament*, on which it is grounded, according to the following Circumstances.

A—refused to serve as Constable, and being now objected to on that Account, pleads the Privilege, as he is a Surgeon, according to the Charter of *Hen. VIII.*

GOOD.

B—refused to serve as Scavenger, alledges, that he has served the Office of a Common-Council Man for the Ward of F, of which he was formerly an Inhabitant.

GOOD.

C—having refused, &c. now urges, that he was Servant to a Company, and had Orders from his Superiors not to attend any other Duty or Ward Office.

B A D.

D—pleads by way of Excuse for having refused to be Lamp Collector, that he then produced a Certificate for the first Time of

of the Conviction of a Felon, according to the Statute of 10 and 11 *William* III.

GOOD.

E—pleads the like Excuse, but the Certificate is not for Convicting a Felon within that Ward—or it is for Convicting one of a different Species of Felony than what is described by the Statute; or it is one that had been before produced and excused another Person.

BAD.

It must be observed lastly, that there is this difference between *Scot* and *Lot*, that Payment of *Scot* is a Duty laid on *the House*, according to its Value; but bearing of *Lot* is a Service personally due from the *Inhabitant*; in the first Instance there is, besides the Disability of Voting, a Distress on the Goods, especially for Non-payment of the *Lamp, Watch*, and *Poor's* Rate; but he who refuses when elected to take his Share of common burthensome Offices, ought more particularly to be excluded, on account of its being unreasonable, as I remark'd before,

before, that he should Vote others into an Office which himself may have refused: For upon the whole, they only ought to be entitled to this great Privilege of their Society, who have chearfully contributed their Proportion towards the good Order and Support of it, both in *Money* and *personal Service*.

I have all this while only consider'd the Qualifications which a *sole Occupier* of a House ought to have, in order to maintain his Right of Voting at these Elections; but the 10th Sect. of the Statute relating to *Partnerships*, has further Enacted, " That in Case any two or more
 " Partners carry on a joint Trade in any such
 " House together, and shall have been House-
 " holders of such House by such Space of time
 " as aforesaid, such Partners shall upon paying
 " their Scot in manner aforesaid, and bearing
 " their respective proper Lots if required, have
 " Votes, &c."

The Construction upon this I apprehend to be, that it must appear that *all* the Partners in a joint Trade have been *Householders* of the House in which their Trade is carried on, each of them for twelve Kalender Months next before: I have already defined a *Householder* for this purpose, to be one who is *Rated* and *Charged*

as an Inhabitant of the Ward, by Reason of his *Possession* and *Occupation* of a House therein; [a] and upon this Foundation, some have insisted that *each* Partner, in order to come under that Denomination, ought to shew, that he has been so long expressly set down, and within that Space of Time charged by his particular *Name*, or at least under the Description of *A. and Company*; for tho' the Word *Company* means an unknown indeterminate Number, yet from thence 'tis allowed there is a sufficient Intimation given to the other Inhabitants to find out of what Individuals it consists, in order to Rate them in proportion to their Number, and to nominate each of them to bear their respective proper *Lots*; but if *A.* only is Rated in his single Capacity, and *B.* and *C.* his Partners have industriously avoided having their Names inserted under any description in the Collector's Books, it may be presumed the same was done on purpose to be screened from being asked to bear any Office; and upon that Supposition, it has been argued that they ought to be excluded from the Priviledge of Voting, whatever private Agreement they may have made.

[a] See page 82.

made to satisfy him that is Rated, for taking the whole upon himself: But however, it has been held that Partners, altho' not expressly *named*, nor even under the Designation of *Company*, may yet all be entitled to their respective Votes, if they can prove, that they all contributed jointly to the Rates and Rent of the House, and have served or were willing to serve their several *Lots*; for if this be proved by sufficient Evidence, it would be hard that any one of them should be deprived of his Right from the neglect of a proper Description in the Collector's Books: This I say must be *proved*, and the Necessity of such a Proof will appear in the next Place, inasmuch as *Partners* are to pay *their* Scot, which must signify their joint Contribution to an Assessment that has been made, or was intended to be made upon all and each of them.

The particular Objections therefore with regard to Partners not being Householders for twelve Months, must be determined upon the Evidence that shall then be given of the following particular Circumstances.

A—is Partner with B, and altho' his Name is not inserted in the Collector's Books either
at

at length or under the description of Company; yet he proves that he hath jointly paid the Rent of the House for twelve Months past, and contributed towards the Rates, and has borne, or was and is willing to bear all Offices when required.

GOOD.

B—is Partner with C, as to the Goods in the Shop, but being willing to live retired, agrees that C, only shall be the Inhabitant of the House, and pay the Rent thereof, and be solely Rated thereto.

B A D.

C—is Partner with D, and altho' he now appears to be jointly Rated, &c. yet 'tis proved that he went into Partnership, both as to the Trade and Rent of the House, only six Months ago, and so hath not been an Householder for the whole Year.

B A D.

At the end of this Clause there is still a farther Condition annexed, “ That such
“ House

“ *House* wherein such Partners carry on their
 “ Trade, be of the true and real Value of as
 “ many respective Sums of ten Pounds a Year,
 “ computed together, as there are Partners;”
 from whence an Inference may be drawn,
 that since the House in which the *Partners* car-
 ry on their Trade, ought to be of as *many* respec-
 tive *ten* Pounds a Year, as *there are Partners*,
 so likewise, if their Rates be not fully satisfied,
 there ought to be as *many thirty Shillings* a Year
 at least paid, as *there are Partners*; and this In-
 ference seems to be reasonably founded upon
 the Supposition, that such House in every other
 respect, except in Name, should be considered
 as *several* Houses, and if as such the Priviledge
 of Voting is given to so many different Persons,
 ought not they equally to bear such share of the
 publick Burthens and Taxes, as so many several
 Houses would have been liable unto? for 'tis
 said expressly in this Clause, “ That they are to
 “ pay their Scot *in manner aforesaid*,” that is,
 in the same Proportion as *sole Occupiers* are to
 pay. Now it has already been observed, that
 no one Freeman is entitled to his single Vote,
 whose House is not of *ten Pounds* a Year Value,
 and who has not paid to some of the Rates, to
 the amount at least of *thirty Shillings*, so then
 in

in the same light, we should consider Partners, as subjected, *in manner aforesaid*, equally to those Conditions, both that their House should be of as *many ten* Pounds a Year Value, and that they should pay to some of the Taxes, at least as *many* thirty Shillings as *there are Partners*; for in Parity of Reason, the Payment of one Sum of thirty Shillings ought no more to entitle them to the Privilege of a Vote, than if their House was only of the Value of one *ten* Pounds a Year.

However, I don't from hence pretend to imply, that every Partner ought so to pay the full of *ten* Pounds a Year to such Rent, or thirty Shillings to such Tax, as his own individual Share, towards the general Amount; but only that so much as makes the whole, ought to be paid out of their *joint* Stock; for the Proviso in the Clause is no more, than that the House shall be of the yearly Value of as many *ten* Pounds *computed together*, as there are Partners, therefore if that Sum total be paid, no one has a Right to demand what Share each contributed towards it, since probably their Contributions might be in Proportion to the Interest each has in the Trade, a Circumstance which they may choose to keep Secret; and the Statute seems intended to preclude any Persons from making such impertinent

ment Enquiries, by thus charging the Tax *generally*, and *indiscriminately* amongst them; whereas on the other hand, it Enacts, " That they " shall *respectively* bear their proper Lots," as a distinguishable Duty, relative to *each Person*; for the Necessity which I before urged, of all being Rated *by Name*, was not that such a Proportion of Tax might be demanded of *each* particular, but in order that they might be *particularly* called upon to *bear their Office*; so that a Payment by one may be a Payment for all, if all be Rated and the whole be paid; but the Service of one will not be a Service for another, since each must bear their respective and equal Proportions, in all the distinct Offices to which they may be severally required.

The Qualifications therefore of Partners, with respect to their *Payments* of the Rates, must be thus disallowed or admitted, according to the total Amount of such Payment, whatever the Proportions may be which they severally contribute.

A and B—are Partners and have been Rated, &c. but not Paid to all, nor twice *thirty Shillings* to some.

B A D.

C—is

C—is Partner with D, and although they have been Rated and paid twice 30s. &c. yet 'tis suggested that C contributed no more than 20s. thereof, as his respective Share.

GOOD.

Besides the *sole Occupier* of a House, or *Partners* being *Householders* thereof, there is another Distinction made by the 11th Section of the Statute; whereby 'tis further Provided, “That where *two* Persons and no more, not being Partners, shall have by the Space aforesaid, severally *Inhabited* in the same House; such *two* Persons, severally paying their *Scots*, and bearing their respective *Lots*, shall have Votes, &c. so as such House, wherein such *two* Persons *Inhabit*, be of the yearly Value of *twenty Pounds*, and that each of them pay the yearly Rent of *ten Pounds* for his respective Part thereof.”

What must first demand our Attention in reading this Clause, is, that it confines the Privilege of Voting to *two* Persons only, severally *Inhabiting* in the same House; for the frequent Repetition of that limited Number, seems to be purposely made to avoid any Construction by

K

which

which the Priviledge might be extended to more than *two* Persons, not being Partners, inhabiting in *one* House; and this is farther guarded against by declaring, that the House in which such *two* Persons inhabit, should be of *twenty Pounds* a Year Value, each paying, that is, being responsible for the Payment of ten Pounds as his respective Share thereto; but nothing can from hence be infered, that a House of *twenty Pounds* a Year should give Votes to *three* Persons and so on; and therefore, whenever it shall thus happen that *three* Persons or more pretend each to a Vote, by reason of their being separately Rated, *all* of them ought to be equally rejected, for as it is impossible to know whom to exclude, so consequently none of them should be allowed; and 'tis probable that the Intention and View of thus limiting their Number, was to prevent the multiplying of Votes by a single House, allowing a Right to so many different Persons; for if this Priviledge could be obtained by all Lodgers or Inmates, the Houses in a Ward might be very unequally Occupied; and some be left to stand empty, whilst others would be too much crowded; which of Course would occasion a deficiency, at least in the Aids demanded by Parliament.

But

But as this Privilege is annexed only to a *sole Occupier* of a House; or to *Partners*, being Householders thereof; or to *two* and *no more*, severally inhabiting therein; it induces People, in order to obtain the common Privilege of the Society, to separate and divide into different Habitations of their own, by which means all the Houses are more likely to be taken up, and all the Rates and Taxes whatsoever more sufficiently answered.

The next Observation we are to make on this Proviso is, that it entitles such two to Vote who have severally *inhabited* the same House, so as such House wherein they *inhabit* be of the yearly Value of twenty Pounds; supposing therefore there could be any doubt who are to be deem'd *Householders* within the meaning of the former Clauses, yet here the Term *Inhabiting* being mentioned, and that too repeated, there needs no Reasoning by way of Implication, to prove them any more than Persons Rated as *Inhabitants*; so that if one Rents the Warehouse and the other the upper Apartments, or if they divide the House and Shop between them, to ask which of them keeps House, or whether both Diet or Lodge therein, are Questions which the Wording of this Clause will not admit of

being debated; and this strengthens and confirms what I before submitted, [a] that being *Rated* to a House and *Occupying* the same was sufficient to bring a Person under the Denomination of a *Householder*; which now plainly appears to be the Intent of this Statute, for since by Sect. 7th, none but *Householders* are to have a Right to Vote; and since by this Clause Persons under the Name of *Inhabitants* are entitled, it must follow, that such *Inhabitants* are to be construed as *Householders*, and consequently may claim the Privilege of Voting, if severally *Rated* to the House they so *inhabit*, as being in this Sense each of them *Householders* of his respective Part thereof. [b]

To this end 'tis further provided, that such *Inhabitants* shall severally pay their *Scots*, in the Plural Number, different from the Case of *Partnerships*, where there is to be but one Demand made upon all, to which they must jointly contribute their *Scot*; but here *two* distinct Assessments are made; and both *Inhabitants* must pay to *all*, or at least *thirty Shillings* a piece to all that they are *separately Rated* unto; and also must bear their *respective Lots*, in manner

[a] See Page 82. [b] See the Note on No. 12 of the Appendix.

manner aforesaid, that is, in the same Proportion, as if they were, *each* of them separately Householders of distinct Houses.

Upon the foregoing Construction of the Words of this Clause, we may determine how far two several Inhabitants of a House and no more are Qualified to Vote as Householders, and paying their respective Scots; according to the particular Instances here mentioned.

A, B and C—are all three several Inhabitants of a House, every one paying ten Pounds a Year Rent, and are separately Rated, and pay thirty Shillings a-piece as their respective Scots; so that as each have an equal Right and all cannot be allowed, it would be Injustice to exclude one and admit the other two; therefore all three must be deemed

B A D.

D and E—are two several Inhabitants of a House, D living in the upper Apartments, and E hiring only the Shop to carry on his Trade, and Lodges and Diets at another Place; but they both separately Pay ten Pounds a Year for Rent, and are se-

parately Rated and answer their respective
Scots and Lots.

GOOD.

F—is an Inhabitant with G, and the House
is charged with twenty Pounds a Year
Rent, and twice thirty Shillings in Taxes,
but F pays only one third thereof, as his
Proportion.

B A D.

G—the other Inhabitant, pays two thirds of
the above Rent of twenty Pounds, and
the same Proportion to the Taxes.

GOOD.

I have before observed, that we ought to
consider both *Payment of the Rates*, and *serving of
Offices* as the principal Duties which entitle every
Inhabitant to the Priviledge of Voting ; and for
this reason the latter part of the 14th and last
Section relating to Elections in general within
the City, has declared, “ That the Vote of
“ every Person shall be void, who has at any
“ time within two Years next before the Elec-
“ tion requested to be and accordingly has
“ been discharged from paying all or any of
“ the

“ the Rates and Taxes which the Citizens of
 “ *London* Inhabiting therein are liable unto.

In mentioning how far and against whom
 this Objection might be urged at the Elections
 by the *Common-Halls*, I was obliged to distin-
 guish that, according to the Words of the
 Clause, it could not be extended to those who
 live out of the Jurisdiction of the City, but is
 confined to the Citizens of *London* inhabiting
therein; consequently then it must generally af-
 fect all who Vote at these Elections for the
 Choice of Officers within the respective Wards
 of the City, since none can Vote at such Elec-
 tions but those who are Inhabitants *therein*;
 and here the Objection seems to be founded on
 very good Reasons; for he who has been dis-
 charged at his own Request from the common
 Rates imposed upon his Neighbours, ought
 surely to forfeit the common Privilege that
 is annexed to the Payment of them.

But this disqualification must be first under-
 stood to arise from the being discharged from the
total Payment of all, or the *total* Payment of
 any one Tax; the Objection therefore doth not
 reach those, who may by chance insist upon be-
 ing remitted a *Part* of a Rate, as being over-
 charged beyond their Proportion, and on which

account they may reserve to themselves the Right of Appealing.

In the next Place, even as to those who have been returned as excused and discharged from the full Payment of any Rate, it ought to be proved, that they personally requested the being discharged therefrom, and were accordingly excused in Pursuance of their own Petition; because, as I before observed, an Omission to set one down to any particular Rate, without any Application of his own, ought not to be so adjudged, as to deprive him of his Right, when he has done his Duty in every other Respect, where he was properly apprised; and therefore in such Case, it would be an unjustifiable and arbitrary forbear Rating a Person to some particular Tax, without his Knowledge or Desire, and then to return his Name as deficient from a mere Surmise of his Inability to pay.

Lastly, when the Objection is rightly made out against such a one from being discharged from the total Payment of a Rate upon his own Request, it must appear, that he was so discharged at some Time, within *two Years* next before the Election. And the Words of this Clause

Clause seem expressly to declare, that the Vote of every Person is void for having been at *any* time within two Years before discharged, altho' he may *afterwards* have been rated, and paid to all the subsequent Assessments; and the Reason of this I apprehend is, because such after Submission cannot heal the former Deficiency, which, when the half yearly or quarterly Accounts were made up, being then returned by the Collectors as deficient, must remain by the Evidence of that Return, as a Mark of his Refusal to satisfy his Duty at *that Time*, for which, as he cannot make any after Recompence, his Vote, by way of Punishment, ought *now* to be disallowed.

The Objections upon this Head therefore must be distinguished as they shall appear under the following Circumstances.

A—has within two Years requested to be discharged from one or two particular Rates, and was accordingly excused, but he was rated and paid to the rest.

B A D.

B—thinking himself overcharged in several Particulars, tender'd Part of the Payment
to

to each, and reserved what he thought was beyond his Proportion to be determined upon an Appeal.

GOOD.

C—the Year before last requested to be, and was accordingly discharged from some of the Rates, but this Year, in which the Election happens, he has been again rated, and paid his latter Assessment.

B A D.

D—was omitted to be charged to a particular Rate, but it was without his own Knowledge or Request.

GOOD.

We are now lastly to consider of the Determinations to be made upon that cruel Circumstance of one's being objected to, “For having had and received within the Space of two Years next before the Election any Alms whatsoever;” and here Charity itself must teach us to judge with all the Lenity and Indulgence due to the Character of a Fellow Citizen and Neighbour, who altho’ he be the Householder of a House of *ten* Pounds a Year, and has discharged all his Rates, and borne his

his Lot, and performed his Duty in every Respect, yet, as an Exception to the general Rule I have so often laid down, is now to be deemed by this one only Objection of *having received Alms*; an Imputation so low, as to put him upon the Level with the Common Poor of the Parish, whom he by his own Contributions has before help'd to support.

As this is an Objection to be offer'd at all Elections within the City of *London*, I shall once for all mention the several Distinctions necessary to be taken Notice of; having before refer'd to the Observations I am now to make, as equally necessary to be consider'd upon a Scrutiny at a *Common-Hall*; as upon these and all other Scrutinies at Wardmote Elections.

Persons liable to be objected against by this disabling Clause, however sufficiently qualified they may be in every other Respect, are such, who have asked and received any Sums of Money, as Charities from private Persons, or any publick Collection; or from any charitable Legacies or Bequests; or the Share of any Forfeiture by a penal Act of Parliament to the Use of the Poor; or Part of the King's annual Bounty Money, or of the Ward Charity Coals distributed within the City.—Such who have
been

been in any Hospital, or Infirmary, for the Relief of the Sick and Lame; or received Physick and Advice from thence *gratis*, as Out-Patients; or have been in the *London* or any Parish Workhouse.—Such also as have been confined in any Prison, and received Part of the Allowance of Bread and Beer, or of the Box Money; or Bequests to Prisoners; or have been released by the Charity of some other Person.—All these, I say, are liable to be disqualified at any Election within the City of *London*, upon Proof, that they actually *asked* for, or submitted to *take*, and were *relieved* by one or other of the above-mention'd Species of *Charity*; some of which are indeed of a very low Nature, and therefore it seems to be the Intent of this Part of the Statute, That Persons so reduced from their former Rank, should also forfeit their former Right of jointly enjoying those Priviledges, which belong to Citizens of a higher Station, and more sufficient Abilities.

So general a disqualifying Clause may perhaps in many Instances occasion a great Drawback upon Charity, as it must restrain the Inclination of the Giver, as well as cause a Reluctance in those who want Relief, since by their Acceptance

tance of never so small a Trifle, they at once sell all the Priviledges, which were purchased by their former Services; and thus the very End of the Charity is perverted, and the Benefit intended proves in the Consequence an act of Diskindness: It may besides occasion a great Misapplication of the publick Charities, for it is possible, that a Distribution may at some times be made, with a View rather to disqualify a Person from his Vote, than to relieve his Want; not that I presume to say this ever has, or will be done, but I only suppose a Possibility from hence, that some designing People may be indirectly tempted to relieve their *Enemies* thro' Spight, and pay such a Regard to their *Friends*, as to overlook their Necessities.

From these Considerations we ought carefully to make a Variety of Distinctions necessary to be observed upon all these various kinds of Charity, both with Regard to the Persons who *give*, or who *receive* them, and also to the *Motives* on which they are bestowed, or the *Terms* upon which they are accepted.

And first this Objection ought only to be urged against a Person for having himself *personally* received any such Alms as aforesaid, and

not

not because his Wife might have received some Donation, or that his Servant was admitted as a Patient in an Infirmary, or his Children educated at Christ Hospital, or any other Charity School; for at this Rate the Objection may be extended against any the most eminent Citizen, who nevertheless may have a Son admitted upon the Foundation of a publick School, or who receives the Profit of a Fellowship, or of an Exhibition in either of the Universities; so that to prevent all such Surmises from being carried to too great a Length, it will be best to disallow every Objection of this Sort that may be made on account of such Collateral Benefit received by the rest of the Family, since the very Words of the Act, which here ought to be taken strictly, go no farther than disqualifying those, who have actually *themselves*, within the Space aforesaid had and received Alms.

When this Objection is thus personally urged against a Voter, the next Enquiry must be upon what *Motives* the Benefaction was bestowed, and upon what *Terms* it was accepted; for a Present from a Relation or Friend out of Love and Affection; or a Donation to an Industrious Person by way of Reward, plainly
arise

arise from Motives different from that of mere Charity; and on the other hand, a free Gift or Act of Benevolence may be accepted by one, who would be above taking it under that Name of *Charity*, or by way of *Alms*, which is a Term of a yet lower Signification. The Point therefore to be proved is, that the Person charged with having taken the *Alms*, knew that they were given to him *as such*, according to the general Definition of *Charity*, which is described as a Gift bestowed upon the mere Impulse of Pity and Commiseration, and consequently, that the Object to whom it is offer'd, takes it merely as a *Relief* to his Want and Necessity; but when other Considerations are alledged, as that of *Gratuity*, or *Reward*, or *Perquisite* for some previous Service, they ought to be duly weigh'd by way of Abatement to the general Imputation, in order to save the Right of any one who shall appear to be in a Station above the Acceptance of any Gift thro' mere Charity, tho' the Bounty itself may have originally arose from a charitable Foundation.

Thus, suppose the annual Income of an Estate is left to some particular Company or Mystery within the City, Part thereof to be expended at different Seasons in entertaining the principal

pal Members when they meet to settle their Accounts, and commemorate their Benefactors ; and Part to be distributed in Money amongst the Poorer decay'd Brethren of the same Community ; in such Case, the partaking of the Entertainment ought not to be construed, as the taking of Charity, but the Acceptance of the Distribution Money most certainly is so.

In like manner, it must always be distinguished according to the Intention of the Donor, where the Thing bestowed may be deem'd as a *Perquisite* ; for Example, it is customary in many Parts of the City to allow a particular Share of the King's Annual *Bounty-Money*, and a Quantity of their *Ward Coals* free of Duty to their Beadles ; and in some Parishes, even to distribute a Portion of their *Sacrament Money* to their Clerks, not as *Alms*, but as Part, and in Augmentation of their ordinary Stipend, and for their personal Attendance ; and altho' this may be deem'd a Misapplication of Charity ; yet it has been allow'd, that if those Persons take the same by Custom in Consideration of their *Office* and *Duty*, and the Contributors know they do so, and consent thereto, it ought not to be adjudged, either as the Giving or Taking of Charity : But on the other hand,
if

if such Parish or Precinct Officers receive any Allowance arising from the Bequest of a *private* Person, altho' they may alledge, that the same is also a Customary Distribution to them in respect of their Office, yet that must be considered as the receiving of *Alms*; for in the former Instance, their Claim and Title of taking it as a Perquisite is supposed to be admitted and consented to by the *Donors*, but here the Intent of the Testator cannot be known, but by the Words of the Will, and if he has therein expressly bequeath'd it as a *Charity*, it cannot be given away under any *other* Denomination.

The same Determination must be made on every Benefit alledged to be obtained under any Will, which *called* and *bestowed* it as a *Charity*; and therefore, if under that Name a Sum of Money be left to Trustees to set up Apprentices just out of their Time, or to lend it for a Number of Years to poor Tradesmen without Interest (for there are such kind of Charities now subsisting in *London*) they who have received any Share thereof, must be adjudged to have *taken* it on the *Terms* upon which it was *bestowed*.

So also, he that accepts of any Forfeiture destined by a Penal Act of Parliament to the

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Use

Use of the *Poor*, acknowledges himself to be a Person designed by the Law to be so *relieved*, even altho' the Forfeiture was made by himself, and he only receives back the very Money he paid; for having at first so forfeited his Property therein, he now becomes entitled to it again, no otherwise than as an *Object* of *Charity* within the Parish; and thus in all Cases in general of publick or private Donations, or Charitable Legacies and Bequests, which are bestowed as Eleemosynary Gifts upon no other Consideration than that of *Pity*, and by way of *Relief*; and which are named to be *Charities*, and applied for *as such*, he who takes them, receives them upon the Terms they were given, and must come under the Disability as one *receiving of Alms*.

Since I have made a great many Distinctions necessary to be considered on this Point, I am obliged to add a great Number of Determinations that have been, or ought to be made on each particular Case; wherein let it be observed all along, that whatever is alledged upon each Objection, must have happen'd within two Years next before the Election.

A—applied

A—applied for and received Part of a Sum of Money publicly collected for the Use of the Poor.

B A D.

B—petitioned for and received Part of a Charity left by a Will.

B A D.

C—was admitted a Patient in St. Bartholomew's Hospital, or received Physick from thence *gratis*, as an Out-Patient.

B A D.

D—being absent from Home, his Wife unknown to him, received Part of a charitable Distribution.

GOOD.

E—by his Application and Interest got an Apprentice or a Servant into St. Thomas's Hospital.

GOOD.

F—has a Son maintained and educated at a Charity School, or at Christ Hospital.

GOOD.

G—has been in the *London Workhouse*, or in Prison, and there received the Daily or Weekly Allowance.

B A D.

H—often receives Presents from a Friend and Relation, both in Money and other Necessaries, which are sent only as Tokens of Affection and Friendship.

GOOD.

I—being a Member of a Company accepts Part of a Legacy or Benefaction annually distributed by way of Charity amongst the poorer Brethren of that Community.

B A D.

K—being a Parish Clark receives, according to Custom, Part of the Sacrament Money every Month, by the Knowledge and Consent of the Parishioners.

GOOD.

L—being a Beadle received Part of the Ward Coals, which it is customary to give him by way of Gratitude for assisting at the Distribution to others.

GOOD.

M—being

M—being Beadle, and assisting at the Distribution of some Legacies, left by way of Charity to poor Housekeepers, asked for and received Part of the same himself.

B A D.

N—had a Loan of a Sum of Money left by Will to be lent to poor Tradesmen without Interest.

B A D.

O—applied for and received Part of a Sum of Money forfeited to the Use of the Poor.

B A D.

P—received a Sum so forfeited to the Poor, but it was what he himself had forfeited, and paid upon an Information against himself.

B A D.

It must have been observed all this while, that the first part of the Statute of 11 George I. with regard to Wardmotes, relates only to the Elections of *Aldermen* and *Common-Council Men*, and altho' it is thereby in general enacted,

that the Right of electing an *Alderman* shall appertain only to Freemen Housholders in their several *respective Wards*, yet here by way of Exception we must take Notice of the particular manner of supplying the Vacancy in the Ward of *Bridge without*, which is usually fill'd by the Removal of the senior Alderman pass'd the Chair, stiled the *Father* of the City, without any Election by the *Inhabitants*, according to an *Act* of Common-Council of September 20, 1711, Sir Gilbert Heatbcote Mayor, and where by it is further provided, “ That in case of
 “ his Refusal to remove, then the next senior
 “ Alderman, and so successively every other
 “ Alderman according to Seniority who hath
 “ borne the Office of Mayor, shall and may,
 “ if he thinks fit, remove to, accept and
 “ take the said Ward; in which case the
 “ Inhabitants of the Ward from whence such
 “ Alderman does so remove, shall be summoned within four Days for the Election of
 “ another to supply that Vacancy in their
 “ Ward; but if none of the Aldermen who
 “ have borne the Office of Mayor will
 “ remove to and accept the said Ward, then
 “ the Lord Mayor for the Time being, shall
 “ within fourteen Days after cause a *Common-*
 “ *Council*

“ *Council* to be summoned, at which the
 “ Lord Mayor, Aldermen and Commons
 “ then assembled, shall, by plurality of Voices,
 “ forthwith elect and choose one fit and able
 “ Person, being a Freeman of the City,
 “ to be an Alderman of the said Ward.”

And subsequent to this, there has been another explanatory *Act* of Common-Council passed May 12, 1725, Sir George Merlins Mayor, whereby the particular Time is prefix'd in which each Alderman so empowered to remove, shall declare respectively his Consent or Refusal so to do, that thereupon if none of them will accept of that Ward, the *Common-Council* may, in due time, exercise *their* Right of *electing* a new Alderman to serve therein.

Since the Statute of the late King for regulating the Elections of Aldermen and Common-Council-Men, makes no particular mention of the Right of voting in the Choice of *Constables, Lamp-Collectors, Scavengers, Beadles* and *Inquest Men*, we must refer back to the antient Usage and By-Laws of the City, which have preserved the Choice amongst the *Householders* in general, without respect to their being *Freemen*; but nevertheless these Officers are to be chosen at the annual Wardmotes held on

St. Thomas's Day, or at any other Wardmote that may be occasionally summoned to supply such Vacancies as may happen within the Year by Death or Removal.

As the Right of voting at the Choice of these Officers is not confined to the Freemen Inhabitants, so neither is such Qualifications necessary towards being elected and serving the same, but every Householder who is rated to his Scot, is liable here to bear his Lot when thus required; excepting that by an Order of the Court of Aldermen dated November 30, 1736, Sir John Thompson Mayor, there is a Caution given to the Inhabitants not to choose any Victualler or Alehouse-keeper into the Office of Constable.

In order that there may be some Rule of knowing and ascertaining who have a Title to vote at these Elections, where the Right is left so much at large, it is directed by an Act of Common Council October 26, 1692, Sir Thomas Stampe Mayor, " That the Beadles of
 " the respective Wards shall prepare and de-
 " liver to the Alderman, or Person deputed
 " by him at such Wardmote, a List of all
 " the Freemen Householdors dwelling and re-
 " siding in the said Ward apart and by them-
 " selves ;

“ selves; and also a List of the *other* House-
 “ holders within the said Ward apart and by
 “ themselves, to the intent that such Freemen
 “ Householders may elect the Aldermen and
 “ Common-Council-Men, and They together
 “ with the *other* Householders may choose
 “ their *Constables, Scavengers, Inquests* and
 “ *Beadles.*”

It cannot be supposed, that any will offer
 themselves Candidates for such of these Offices
 as are merely of Burthen, and therefore upon
 this Supposition, a Provision is made in the
 Statute of *George I.* that whoever refuses,
 that is, without pleading any Privilege by way
 of Excuse, as I observed before, to serve his
 Lot to any of those Offices after Nomination
 and Election, shall be liable to the disability
 and forfeiture of his Vote at all future Elections.

However, as the Place of a *Beadle* of a Ward
 or particular Precinct is of some Profit, for
 which 'tis usual for great Numbers of honest
 decayed House-keepers to petition upon every
 Vacancy, it will be proper just to propose
 such Rules as may tend to the most quiet, cheap,
 and expeditious Manner of determining any
 Contest that may arise upon a disputed Election
 for that particular Office; and to this Purpose
 the

the Inhabitants ought first of all to be apprised of an old Act of Common-Council of *October* 10, 1663, *Robinson*, Mayor, which should always be read at the Wardmote upon Proceeding to the Choice of *Beadles*; whereby, in order to prevent too great Confusion by a Multitude of Candidates, it is ordained and established, “ That the Alderman of each Ward, “ with the Consent of his Deputy and Common-Council Men, or the Major Part of “ them, shall at the accustomed time of “ Election, nominate unto the Inhabitants of “ the said Ward, two honest, sufficient and discreet Persons for the Place of Beadle, &c. “ and that the said Inhabitants shall choose “ one of the said two Persons so nominated, “ who being so elected shall fully hold, enjoy “ and exercise the said Office.”

If therefore a *POLL* should be demanded upon a disputed Election between two so nominated, the *Time* for finishing the same must be left to the Discretion of the Presiding Officer, whose Duty it is to proceed therein from Day to Day, untill it be concluded, without any long or unnecessary Adjournments, and to close and finish it at such fix'd time as shall be agreed upon by the contending Parties with his Approbation

probation : And since the Qualifications necessary to entitle the Inhabitants to Vote are left unlimited, as to their being free of the City, every one must be admitted to Poll under the general Title of a *Householder* within the Ward, according to the Definition of a Householder before laid down, [a] in Consequence whereof he must be an Inhabitant of a House *rateable* and charged thereto by *Name*, or at least liable to pay his *Scot*, and bear his Lot, tho' there is no Necessity that he should prove the actual Performance of either of those Duties, as required upon the Election of Aldermen and Common-Council Men, nor is it requisite here, that he must have been such Householder for any particular Length of Time, for altho' he may not have lived so long a while within the Ward, as to be charged to any Rates already due, yet it will be sufficient if he appears as one who will be liable for the future. — And as no *Oath* is directed to be administer'd to those who shall offer to *Poll*, nothing more can be required of them, than their Name and Place of Abode, and an Assurance that they have not Poll'd before. But in order to avoid the taking down the Names of such Persons as
are

[a] See Page 82.

are not properly Householders of the Place they may pretend to live in, it will be a good Check to have the *Rate Books* of the several Parishes ready at the Wardmote, to which it may be refer'd, whether the Name of any such suspected Person be *rated* therein, for if it be not, his Poll ought to be denied, unless he produces some other Voucher, that he lives in a *Rateable House*, tho' not charged expressly by his own *Name*.

Such previous Examination may be necessary, even upon the Poll, on purpose, if possible, to prevent any Pretence for demanding a SCRUTINY, but if a *Scrutiny* be demanded, and it is thought reasonable to grant the same, it must be proceeded upon in such Time and Method as the Alderman or his Deputy shall direct, requiring, at the same time, for his own Justification, the Consent and Agreement of the several contending Parties; for there is no Act of Parliament, nor *By-Law* of the City, directing how to proceed therein, and I fear it would be too expensive for the Candidates to such an Office to pursue the like Measures as are to be taken upon Scrutinies for Common-Council Men.

That

That the Alderman therefore may direct these Proceedings in the cheapest and most expeditious Manner, he should first adjourn the Wardmote for a few Days, in order to deliver out Copies of the Poll to both the Candidates, and then all Parties being met again in Pursuance of the Adjournment, it may be agreed, that the *Poll Books*, together with all the *Parish Rate Books*, be laid together for the Examination and Inspection of a Number of Scrutineers to be appointed for each Candidate, and that in going over the Names of those who have poll'd, every Person be allowed in the first Instance to be properly qualified, "who is
 " an *Householder* of a *House rateable* within the
 " Ward, and who in Pursuance thereof is actual-
 " ly charged by *Name* to the Watch or Poor, or
 " all or some other of the Rates in the Books of
 " the Parish, in which he has polled as an In-
 " habitant, or who can prove by other Evidence,
 " that he is *liable* to the Payment of such Rates,
 " tho' not charged by Name."

Actual Payment, as I before observed, is not necessary, not even to the *Lamp* and *Watch* Rates, tho' charged thereto; for the disabling Clauses of the two Acts of Parliament, relating to those Rates, if construed strictly, as they ought

ought to be, refer only to those who Vote at the Elections of *Aldermen* and *Common-Council-Men*; but yet the Vote of such Householders may be rendered void even at this Election, if they have within two Years before been *discharged at their own Request, from any Rates, to which as Citizens of London and Inhabiting therein, they ought to be liable*; or if they have within that time *received any Alms whatsoever*; for the 14th Section of 11 George I. in general directs, “That such Persons shall be disqualified at all Elections of any Officers to be chosen in and for the said City, or any of the *Wards or Precincts* thereof,” accordingly the Determinations to be made on such a Scrutiny, will be confined only to the three following Objections—first, for not being a *Householder*, &c.—or in the next Place, for having requested to be *discharged from the Payment of Taxes*, &c.—or lastly, for having *received Alms*, &c. I must refer therefore to the Observations I have before made upon each of these Circumstances, for it is needless here to add any more Remarks, where there is so little likelihood that such a Contest will be made; or if such Contest should ensue, where the Rules for deciding it lie in so narrow a Compass.

There

There may be many other Circumstances, which have heretofore, and may hereafter happen, that are not comprised in the above Observations; the Determinations of which are, in general, to be governed by this equitable Rule and Principle, that, he who has *paid all that he is liable unto*; borne all *Offices required* of him; and never *knowingly* omitted any Duty; nor *wilfully* committed any Default; is entitled to a *VOTE* by way of *Recompence* for the Share he has thereby contributed to the support and good Order of the *Community* in general.

And now I must beg leave to mention some *subsequent Proceedings* which are necessary to be attended to, after the Elections are over, both at the *Common-Halls* and *Wardmotes*.

And first, it may not be improper just here to take notice, that if an Opposition should be so *equally* carried on, as that the Presiding Officer should not be able to decide it in the first Instance upon the *View of Hands*, both Parties ought immediately to proceed to a *Poll*, or should the Numbers be *equal* on a Poll, there must be a Necessity of entering upon a *Scrutiny*, to discover who may have the Majority of *legal* Votes; or lastly, if a Presiding Officer should declare the Numbers to be *even* upon a Scrutiny,

ny, all Proceedings must be renewed in order to come at a Choice, according to the Intent of the original Summons; for as *even* Numbers for Two is no *Election* of either, the Voters don't answer the direction of the Precept or Summons by which they were convened, until they have made an *Election* by a *Majority* for one Side or the other.

After a *Scrutiny* has been taken, and a *Declaration* made, the 5th Clause of the Statute of 11 *George I.* Enacts, " That the Presiding Officer or Officers shall deliver a true List of the Voters disallowed by him or them upon such Scrutiny, to any of the Candidates who shall then demand it within six Days after the Demand."

Now this must mean a List of the Voters disallowed on *both Sides*, and so the Order is more expressly worded by the *Act of Common-Council*, Dec. 6, 1712, Sir *Richard Hoare*, Mayor, from whence this Clause, and indeed the Plan of the rest of the Statute, relating to the Time and Method of Elections was taken and formed; for 'tis equally an Offence to allow such Votes to be *Good*, which were proved to be *Bad*, as it is to deem such to be *Bad*, which were proved to be *Good*; but how can a Candidate be informed what Votes are allowed *Good* on the opposite Side,
but

but by having a List of all that were disallowed. This List however, is not to be admitted as Evidence against the Presiding Officer upon an Information for the Penalty of this Statute, on any Election whatsoever.

If any Citizen shall *refuse*, after Election, to execute the Office he is chosen into, there are several Methods prescribed, both by *Acts of Parliament* and the *By-Laws* and *Customs* of the City, according to the Nature and Importance of the Duty, either to enforce his Obedience, or punish his Neglect: And Penalties are fixed not only for refusing to serve the inferiour burthensome Offices, but also for declining those which are of a more honourable Rank; thus by an *Act of Common-Council*, August 9, 1710, Garrard, Mayor, "If a Person Free of the City, being elected an *Alderman*, shall not personally appear at *Guild-Hall*, and take up on him the said Office and Charge, he is to forfeit the Sum of 500 l.," and by the Act of 20 July, 7 Charles I. Ducey, Mayor, which I have mentioned before on other Occasions, it is ordered, "That if any Person being a Freeman of the City shall be elected *Sheriff*, at the Court of Hustings at *Guild-Hall*, and shall refuse to give Bond as therein required to hold the

" said Office, he shall forfeit the Sum of 400*l*.
 " and if the Person so chosen, be an *Alderman*,
 " and shall so refuse, then every such *Alderman*
 " shall forfeit the Sum of 600 Marks, &c.
 " And every Person or Persons so refusing, shall
 " nevertheless after such forfeiture, remain eli-
 " gible yearly to be Sheriff." And it is further
 Enacted by another Court of *Common-Council*,
 held *October 22, 1703*, Sir *Samuel Dashwood*,
 Mayor, " That if the *Lord Mayor*, in the pre-
 " sence of six *Aldermen*, shall between the
 " 14th of *April* and the 14th of *June*, in every
 " Year, nominate a fit and able Person, being
 " a Freeman, for Sheriff of the City, the Per-
 " son so nominated shall not be exempted there-
 " from, unless within *five* Days after notice, he
 " pays the Sum of 400*l*. into the *Chamberlayne's*
 " Office, &c. which if he accordingly pays,
 " then he shall be discharged from serving the
 " said Office for *three* Years next ensuing; but in
 " Case of his refusal to pay that Sum, he shall
 " at the next *Common-Hall* summoned for the
 " Election of Sheriffs, be the first Commoner
 " put in Nomination; and if he there be *Elec-*
 " ted, and shall refuse again to take upon him
 " that Office, he then shall forfeit and pay
 " the Sum of 620*l*."

Such

Such as submit to pay these *Fines*, are however afterwards so far indulged, that notwithstanding they might again be eligible according to the Tenour of the By-Laws above recited; yet upon Application made by any one to the *Common-Council*, a Resolution or Order is usually passed to exempt and discharge him from ever after serving the said Office, with an Exception, that if a Commoner, at such time excused from serving the Office of Sheriff, should afterwards be elected an Alderman, he then shall again be liable to be chosen Sheriff.

Lastly, there are many Instances on Record, whereby it appears that sometimes the Court of *Aldermen*; but more frequently the Court of *Common-Council*, have used a discretionary Power either of punishing or excusing such as have refused to accept the higher Office of *Lord Mayor*, upon their being elected thereto; and particularly at a Court assembled for this very purpose on *St. Simon and St. Jude*, in the 15th Year of *Henry VIII.* [a] It was enacted and agreed,

M 2 “By

[a] This Court was held to punish *George Manoux*, Alderman, who having been acquainted that he was elected Mayor, on the Translation of *St. Edward the King*, and being called upon to take upon him the said Office, and not appearing, &c. it was upon the same Day decreed, determined and adjudged, that he should forfeit and pay the Sum

“ By the Mayor, Aldermen and Commons,
 “ and by the Authority of the same, that
 “ whensoever hereafter it shall happen any Al-
 “ derman to be elected and chosen Mayor of
 “ this City, and that he so Elected, eloyne-
 “ absenteth and withdraweth himself from this
 “ City, only to the Intent that he will not
 “ take upon him the Charge of the same
 “ Mayoralty, that then and as oftentimes as
 “ he doth so, he shall forfeit to the Mayor
 “ and Commonalty of this City 1000 *l.* Ster-
 “ ling, the same to be levied on his Goods,
 “ Chattels, Lands, Tenements, Rents, &c.
 “ being in his own Possession, or else in any
 “ other Person or Persons, having Possession
 “ to his Use; or else by Action of Debt in the
 “ Name of the Chamberlayne; or in any other-
 “ wise, as by the Mayor and Aldermen for the
 “ time

of 1000 *l.* Sterling to the Use of the City, &c. and there-
 upon it was further in general Enacted, as above recited.
 Afterwards at a *Common-Council*, held on the 28th of *July*,
 16th *Henry VIII.* he petitioned, that the Decree against
 him on *St. Simon and St. Jude's Day* might be revoked
 and annulled; to which, as it is there expressed, the
 Mayor and Aldermen agreed, on some special Conditions,
 and the *Common-Council* also confirm'd the same.

N. B. There are about fifteen more Precedents of the
 like Nature Recorded in the City Journals.

“time being shall be thought most and best
 “Convenient. However, not to rely on an-
 tient Precedents, there are some, even of a mo-
 dern Date, which shew that a Court of *Com-
 mon-Council* has assumed the Power after an
 Election, either to compel or excuse the Service
 of that Office. [a]

But whatever Penalties may have been fixed,
 or whatever discretionary Powers may be exer-
 cised to punish those who refuse when they are
 properly Qualified; yet there are some parti-
 cular Offices which the Person elected or to be
 elected may be under such an *Inability* to ex-
 ecute, as must necessarily discharge him from
 the Undertaking.

The first *Disqualification* of this sort, is the
insufficiency of Fortune, which may be pleaded,
 and is such an Excuse as ought be allowed in
 all Instances, where there is a Necessity to sup-

M 3 port

[a] At a *Common-Council* held on the 10th of October
 1740, Sir John Salter, Mayor, it was moved, “That Mr.
 “Alderman *Heathcote*, (who having been elected Mayor
 by a Majority of the Court of Aldermen, had desired to be
 excused) “should be compelled by Fine or otherwise, to
 “serve the Office of Mayor for the Year ensuing;” which
 passed in the Negative, and the contrary Motion, “That
 “he should be excused” was agreed to, and a *Common-
 Hall* was afterwards Summoned for the Nomination of ano-
 ther in his Room.

port any kind of Dignity in the Office; to this
 purpose therefore the afore-mentioned *Act* of
Common-Council, made in the Mayoralty of Sir
Samuel Garrard, "exempts and discharges
 "every Person, chosen or to be chosen an *Al-*
 "derman, from the said Election, if he will vo-
 "luntarily take his Oath before the Lord
 "Mayor and Aldermen, that at that time he
 "was not of the Value of *Fifteen Thousand*
 "Pounds, in Lands, Goods, and separate
 "Debts;" To likewise the *Act* of *Common-*
Council of Feb. 3, 1737, Sir *John Barnard*,
 Mayor, which was made to alter and amend
 a former *Act*, "exempts and excuses any Per-
 "son chosen *Sheriff* of the City, from serving
 "the said Office, if he will take the same Oath
 "in the open Court of the Lord Mayor and
 "Aldermen, that he is not of the Value of the
 "like Sum of *Fifteen Thousand Pounds*." In
 both which Cases 'tis further Enacted, "That
 "such Persons do bring with them *six* other
 "Citizens of good Credit and Reputation,
 "who shall likewise testify upon their Oaths,
 "that they in their Consciencies believe the
 "said Person to be elected, or to be elected an
 "Alderman or *Sheriff*, hath deposed and sworn
 "truly."

The

The next *disability* that may be suggested towards the discharging of any one from such Place or Office, is, that of his not having received the *Sacrament* according to the Rites of the Church of *England* *within the Year* before, in default whereof by the Statute of 13 Car. II. Chap. 4. Sect. 12, "No Person is to be placed
 " or chosen into any Office of *Mayor, Alder-*
 " *man, &c. Common-Council-Man* or other Office
 " of *Magistracy, &c.* concerning the Govern-
 " ment of any City or Corporation;" this *Disqualification* may and ought most properly to be urged by way of *Opposition* to the Candidates, at or after the Election, though it does not disable him from being elected, but the Presiding Officer ought to certify to the Corporation, the Objection made as to such Disability, where the Person so chosen may be refused admittance into the Office, or if admitted and sworn in, may be afterwards removed by them, or by the Prosecution of any other Person; provided, as it is Enacted by a subsequent Statute of 5 George I. Chap. 6. Sect. 3. "He be so removed by
 " the Corporation, or such Prosecution be
 " otherwise commenced," that is, by any other Person "within *six* Months after he is placed
 " or elected into his Office."

Therefore, if the six Months are lapsed, and no Prosecution has been commenced by the Corporation or otherwise, the Person elected is so far discharged from being ever after Prosecuted on account of his Disability, and may then take the Advantage of the occasional Indemnifying Act of Parliament, which is usually pass'd every Sessions, whereby it is Enacted,
 “ That all Persons who have omitted to qualify
 “ themselves for Offices and Employments
 “ within the Time limited by Law, shall, if
 “ they afterwards take and subscribe the Oaths
 “ and receive the Sacrament according to the
 “ Act of 13 and 25 of *Car. II.* be indemnified
 “ from all Penalties incur'd by the above-men-
 “ tioned Acts, and be actually Recapacitated,
 “ in the same manner as if they had not made
 “ such Omission,

But there have been some Instances, where Gentlemen, being Protestant *Dissenters* from the established Church, have *voluntarily* suggested this their own *Incapacity*, as disqualified to serve an Office they have been elected into by reason of their *not having received the Sacrament*, according to the Rites of the Church of *England*, &c. Since this is a Matter of very great Consequence, and has been the Subject of a large Controversy,

I shall

I shall not presume to offer any private Opinion, but must refer to the legal Decision that may hereafter be made upon it in *Westminster-Hall*, whenever such a Plea shall come under Litigation against an Action brought for the Penalty of a Refusal, in Pursuance of any present or future By-Law that may be made.

Those who are *qualified* and *willing* to serve, being elected, and declared to be elected, must be returned, admitted and sworn in the proper Time and Place to the due Execution of their respective Duties, and that each of them may in some Measure be apprised of the Nature of their *Duty*, from the Contents of what they are then *sworn* unto, I have in the Appendix subjoin'd the *Oaths* which every Officer is to take upon such his Admission.

But observe here, that as the *Lord Mayor* Elect, tho' chosen on *Michaelmas* Day, is not to enter upon his Office untill the *Twenty-Eighth* of *October* following, yet he must be presented immediately after his Election unto the *Lord Chancellor*, or some other of his Majesty's *Justices* authorised to receive such *Presentment*, according to the Directions of the fourth Charter granted by King *John*, and of the second Charter of *Henry III.* both of which, in the
same

same Form, " Grant and confirm unto the
 " Barons of the City of *London*, that they may
 " choose unto themselves every Year a Mayor,
 " who may be faithful, discreet, and fit for
 " the Government of the City, so as when he
 " is chosen he be presented unto the King, or
 " his Justices, if he be not present, and who
 " shall swear to be faithful unto the King."

Accordingly, on the 28th of *October*, the
 new elected *Lord Mayor*, upon his being in-
 vested with the Regalia and Authority of his
 Office, takes the antient *Oath* before the Citi-
 zens at *Guild-Hall*, " That he will well and
 " truly serve our Sovereign Lord the King in
 " the Office of Mayoralty of the City, &c." and on the next Day, which is commonly call'd
 the *Lord Mayor's Day*, he goes in solemn Pro-
 cession to *Westminster-Hall*, where being pre-
 sented unto his Majesty's Justices of his *Ex-
 chequer*, he again takes the same *Oath* well and
 truly to serve the King, &c. And at the same
 time the former *Lord Mayor* is sworn to give in
 his Accounts; and truly to execute the Office
 of *Escheator*, and of *Gauger* within the Liberties
 of the City of *London*.

But when a new *Lord Mayor* is occasionally
 chosen upon the Death of a former, and it
 happens

happens not to be within any of the four Terms, in which the *Barons* of the *Exchequer* sit at *Westminster*, it is then further granted by the Charter of *Edward I.* that upon such Emergency, “ The Mayor of the City when chosen, “ and the King and his Barons not at *Westminster*, nor at *London*, may and shall be “ presented and admitted to and by the Constable of the Tower of *London*. [a]

In the next Place, such who are chosen *Sheriffs* at *Midsummer* are also to take Notice, that altho’ they are not to enter upon their Office, untill the Eve before *Michaelmas-Day* following, yet by the Act of *Common-Council* of *July 20*, Sir *Robert Ducey*, Mayor, “ Each “ of them is forthwith to be called upon to “ give his Consent to take upon him the said “ Office, and is thereupon to be summoned “ personally to appear before the Lord Mayor and

[a] *Daniel Lambert*, Esq; was elected Lord Mayor on *Monday* the 23d of *March*, 1740. upon the Death of *Humphry Parsons*, Esq; and on *Wednesday* the 25th of the same Instant following, it being then the *Hilary Vacation*, he was sworn before the Right Honourable Lord *Cornwallis*, Constable of the Tower, in a large Booth erected for that purpose, just at the Entrance of the *Tower Gate*, to which Place the Lord Mayor was attended in solemn Procession from *Guild-Hall* by the chief Magistrates and Officers of the City in the usual State, with the Addition of being preceded by the Company of the *Tower Hamlets*.

“ and Aldermen at their next Court after the
 “ Election, unless such Excuse be made as shall
 “ in open Court be allowed, and is then and
 “ there to become bound unto the Chamber-
 “ layn in the Sum of 1000 l. that he shall
 “ personally appear at *Guild-Hall* at the Vigil
 “ of *St. Michael*, there to take upon him the
 “ Charge of the Shrievalty of *London* and
 “ County of *Middlesex* ;” and accordingly up-
 on such Person’s Default in not appearing before
 the Court of Aldermen, or refusing so to be-
 come Bound, and declaring such his Refusal,
 he, at *that Instant*, incurs the Fine and For-
 feiture as has been before-mentioned ; and the
Liverymen are to proceed to a new Choice, and
 must be summoned from time to time upon
 the *Refusal* or *Insufficiency* of each Person elected,
 untill such are fix’d upon as are *qualified* and
willing to execute the Trust ; in Recompense
 for which, it is with great Equity provided
 and declared by the same Act of Common-
 Council, “ That in the Distribution of the
 “ Fines and Forfeitures of those who shall in
 “ that Year refuse to give Bond, 100 l. Part
 “ of the Forfeiture of the first Person that
 “ has made such Default, shall be given to the
 “ first Sheriff, and 100 l. more, in Case there
 be

“ be a Forfeiture from a second Person, shall
 “ also be given to the Junior Sheriff, upon their
 “ Acceptance and Entrance into the said Office,

The Sheriffs Elect having given Bond to serve, must be careful, according to the Condition of such Bond, to attend in Person at the *Eve of Michaelmas Day*, even tho’ that should happen to be *Sunday*, at the Court of Hustings at *Guild Hall*, and there take the ancient *Oath of Office* unto the Citizens of *London*, and not that *Oath* which is prescribed by the 3d of *George I.* Chap. 15. to be taken by all other Sheriffs; for as the Sheriffs of *London* are elected, and not constituted by Letters Patents, they are excused from taking any Oaths unto the King excepting those of Allegiance and Supremacy; after which, having executed the Indentures of the Delivery of the Prisons, and pass’d thro’ all the other usual Formalities, they from that Instant are charged with that important and hazardous Trust; and the very next Day after, unless it happen to be *Sunday*, *preside* at the *Election* of a *New Lord Mayor*, and the Day following, are to be presented by the Recorder, attended by the Court of Aldermen, unto the Cursitor, or any other, or all the Barons of the Exchequer attending at *Westminster* for that purpose; which again is a Conditional

ditional Formality to be performed in Pursuance of the Direction of the 2d Charter of *K. John*, by which the *Sherifwick of London and Middlesex* is farm'd unto the Citizens of *London* for 300 *l.* a Year, and whereupon it is granted, " That they amongst themselves may make " Sheriffs whom they will, and may amove " them when they will, and those whom they " make Sheriffs they shall present unto the " King's Justices at the Exchequer;" but nothing further is required than barely that they shall be *presented*; for it is particularly provided, by the Charters of *Edward I.* and *Charles I.* " That the Sheriffs of *London* shall not be " compelled to take any *Oath* at the Exchequer, except upon yielding up of their Accounts:" The Reason therefore of their being presented seems to be, in order that the King by his Justices may be informed unto whom all his Writs are to be directed for levying the Fines, Rents and Farms due unto the Crown, and for executing all other Duties that appertain to their Office. [a]

In

[a] For this Reason every Sheriff, tho' elected in the time of Vacation, is nevertheless presented unto one or other of the Barons of the Exchequer, notwithstanding that there is the same Proviso in the Charter of *Edward I.* That the Sheriffs, as well as the Lord Mayor, if chosen, when the King's Justices are not at *Westminster*, may be presented to the Constable of the Tower.

In this Manner the Lord Mayor and Sheriffs are in the ordinary Course annually proposed long before they enter upon their Office, that they may have sufficient Time to prepare and settle all Matters for the due Execution of so great a Trust.

But as the annual Ward Officers are charged to the Execution of their respective Duties immediately upon their Election, they should accordingly be sworn immediately by the presiding Alderman or his Deputy, before the breaking up of the *Wardmote*, for as he holds the Court by an Authority from the Lord Mayor, he has the Power during its Continuance, and no longer, to tender the Oaths of Office to the Persons there elected; but upon its being dissolved, all the Proceedings must be returned to the Lord Mayor, who, as Chief Steward of all the Wardmote Courts within the City, may at any time after administer the Oaths to those who were omitted to be sworn before the Alderman, or his Deputy.

It is by Virtue of this Authority, that the Lord Mayor himself *Presides* in Person, or by his *Locum tenens*, at every *Wardmote* held for the Election of a new *Alderman*, in which, having gone thro' all the Proceedings that may
be

be required, and made his final Declaration,
 he is afterwards, at the next Court of Aldermen,
 to return the Person so by him declared to be
 elected; And thereupon it is provided by the
 Act of Common-Council of *August* 9, 1710.
Garrard, Mayor, " That such new chosen
 " Magistrate shall be summoned on the next
 " Court of Aldermen following, personally to
 " appear at the inner Chamber of the *Guild-*
 " *hall*, and there take upon him the Charge
 " of Alderman of the City, and of the Ward
 " for which he was chosen; which, if he then
 " refuses to do without any Excuse alledged of
 " his Insufficiency with Respect of Fortune,
 " he forfeits the Sum of 500 l." as before-men-
 tioned; but if he appears and is ready to ac-
 cept the Charge, he must be sworn and ad-
 mitted by that Court, which is concluded by
 the Return and Report of the *Lord Mayor*,
 and has no Power to reconsider the Proceedings
 of the *Wardmote* upon the Petition of any of
 the Electors; for altho' such Re-examinations
 may have been formerly submitted to by some
 Lord Mayors at times, when the Inhabitants
 of the several Wards of the City had only the
 Liberty of nominating four or two Persons un-
 to the Court of Aldermen, out of which they
 were

were to choose one, yet all further Debates in that Court concerning the Merits of such Elections are now expressly provided against by the Act of Common-Council of *April 26, 1714.* *Stanier*, Mayor, which reciting, “ That the
 “ Ways of Electing and Presenting more than
 “ one Person to the Court of Aldermen had
 “ been found to be very inconvenient, and
 “ to create unnecessary Difficulties in settling
 “ such Elections, in Cases where Contests
 “ arose;” therefore Enacts, “ That Freemen
 “ Inhabitants, according to antient Custom,
 “ shall elect only one Person, which Person
 “ so chosen shall be returned by the Lord
 “ Mayor, or other Person duly authorised to
 “ preside in his Stead unto the Court of Aldermen,” and then follows a peremptory Direction, “ That the Person so returned
 “ shall be by them admitted and sworn well
 “ and truly to execute the said Office.”

Upon the whole, they who are dissatisfied with the Declaration made at the Election of any Magistrate or Officer of the City whatsoever, may apply for their Remedy to the Court of *King's Bench* at *Westminster*, from whence a Writ of *Mandamus* may be obtained to admit such Person, as shall be suggested to have been

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duly

duly elected, to which, if they to whom such Writ is directed make a Return and deny the Suggestion, the contending Parties may join Issue upon the Merits, and proceed to a fresh Trial, and after the Counsel, as Scrutineers on both Sides, have re-examin'd the Evidence upon each Objection, the Qualification of every Voter must be submitted to the Direction of the Court, and the *Right of Election* will at last be determined by the *Verdict* of a *Jury*.

The Purport therefore of what is here offer'd is to point out such a regular Method of Proceeding, as may most likely guide the contending Parties to the Decision of their own Disputes amongst themselves, without being under the disagreeable Necessity of making Appeals elsewhere, which are always attended with the Addition of a larger Expence, and a longer Continuance of their Heats and Dissentions; and since this Treatise was written with no other View than thus to establish as near as possible the Peace and Union of Neighbours and Fellow Citizens, the obtaining so desirable an End will recompense all the Trouble of the Undertaking, and answer the only Design of its Publication.

F I N I S.

APPENDIX.

Containing the Material Clauses of the Statute of 11 George I. Chap. 18. relating to the Method and Right of Voting.—And the Disabling Clause of the Lamp and Watch Act.—And the Form of a general Objection to be delivered upon a Scrutiny at the Election of Aldermen or Common-Council Men.—And the Forms of the Oath which each respective Officer is to take upon his Admission.

Number I.

Part of the 1st Sect. of 11 George I. Chap. 18. which relates to the Method of Granting and Taking a Poll.

BE it Enacted, that at all times from and after the first Day of *June* in the Year of our Lord 1725, upon every Election of a Citizen or Citizens to serve the said City of

London in Parliament; and upon all Elections of Mayors, Sheriffs, Chamberlains, Bridge-Masters, Auditors of Chamberlain's and Bridge-Master's Accounts, and all and every other Officer or Officers to be chosen in and for the said City by the Liverymen thereof; and upon all Elections of Aldermen and Common-Council Men chosen at the respective Wardmotes of the said City; the Presiding Officer or Officers at such Elections shall in Case a Poll be demanded by any of the Candidates, or any two or more of the Electors, appoint a convenient Number of Clerks to take the same, which Clerks shall take the said Poll in the Presence of the Presiding Officer or Officers, and be sworn by such Officer or Officers, truly and indifferently to take the same, and to set down the Name of each Voter, and his Place of Residence or Abode, and for whom he shall Poll; and to Poll no Person who shall not be sworn, or being a Quaker, shall not affirm according to the Direction of this Act.

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Number II.

The 1st Part of the 4th Sect. directing at what Time a Poll shall be begun and finished.

AN D to the Intent that a Poll at every such Election may be expeditiously and duly taken : Be it further Enacted, &c. That if a Poll shall be demanded at any of the Elections before-mentioned, &c. the presiding Officer or Officers at such Election shall begin such Poll the Day the same shall be demanded, or the next Day following at farthest, unless the same shall happen on a *Sunday*, and then on the next Day after, and shall duly and orderly proceed thereon from Day to Day, *Sundays* excepted, untill such Poll be finished, and shall finish the Poll at Elections by the Liverymen within seven Days, exclusive of *Sundays*, and the Poll at the Wardmote within three Days, exclusive of *Sunday*, after commencing the same respectively.

And shall, upon adjourning the Poll on each Day, at all and every the Elections aforesaid, seal up the Poll Books with the Seals, and in the Presence of such of the respective Candidates, or Persons deputed by them, as shall

desire the same; and the said Poll Books shall not be opened again, but at the Time and Place of meeting in Pursuance of such Adjournment; and after the said Poll is finished, the said Poll Books being sealed up as aforesaid, shall within two Days after, be publicly opened at the Place of Election, and be duly and truly cast up; and within two Days after such casting up, the Number of the Votes or Polls for each Candidate shall be truly, fairly and publicly declared to the Electors at the Place of Election, by the Officer or Officers presiding at such Elections.

Number III.

The latter Part of the 4th Section, directing in what Manner, and within what Time a Scrutiny is to be carried on and ended.

IF a SCRUTINY shall, upon such Declaration made, be lawfully demanded, the same shall be granted and proceeded upon, and the respective Candidates shall immediately nominate to the Presiding Officer or Officers at such Elections, any Number of Persons qualified to Vote at such Election, not exceeding six, to be

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be Scrutineers for and on Behalf of the Candidate or Candidates on each Side, to whom the Presiding Officer or Officers at such Elections shall, within six Days next after such Scrutiny shall be demanded, upon Request and at the Charge of the Candidate or Candidates, or any the Scrutineers on his or their Behalfs, deliver or cause to be delivered to him, or them, a true Copy, signed by such Officer or Officers of the Poll taken at such Elections,

And all and every the Scrutinies to be had or taken upon any Election to be made by the Liverymen of the said City shall begin within ten Days after the Delivery of the Copies of the said Polls; and be proceeded on Day by Day (*Sundays* excepted) and shall be finish'd within fifteen Days after the Commencement of such Scrutiny; and thereupon the Presiding Officer or Officers shall within four Days after the finishing such Scrutiny, publickly declare at the Place of such Election, which of the Candidates is or are duly elected, and the Number of Legal Votes for each Candidate appearing to him or them upon such Scrutiny.

And on the Election of any Officer or Officers at the respective Wardmotes of the said

City, if a Scrutiny be demanded, the Candidates or Scrutineers, nominated on their Behalvs respectively, shall, within ten Days next after the Receipt of the Copy or Copies of the Polls taken at such Election, deliver or cause to be delivered to the Presiding Officer or Officers, the Names in writing of the several Persons, who have Poll'd in the said Election, against whose Votes they shall object, with the particular Objections against each respective Name, and the Presiding Officer or Officers shall thereupon, within three Days next following, at the Request and Charges of any Candidate or Candidates, or the Scrutineers named on his or their Behalvs, deliver, or cause to be delivered to him or them, one or more true Copy or Copies (signed as aforesaid) of the Paper, containing such Names and Objections as aforesaid; and the Presiding Officer or Officers, within ten Days then next following (exclusive of *Sundays*) after having fully heard such of the said Candidates, as shall desire the same, or some Person appointed by him or them, touching such Objections, shall at or in the Place of Election openly and publickly declare, which of the said Candidates is or are duly elected, and the Number of Legal Votes for

for each Candidate appearing to him or them upon such Scrutiny.

And if the Presiding Officer or Officers, or any other Person or Persons shall offend in the Premises, every such Offender, shall forfeit for every such Offence, the Sum of two hundred Pounds of lawful Money of Great Britain, with full Costs of Suit, over and above all Penalties and Forfeitures inflicted by any other Act or Acts of Parliament.

Number IV.

The first Part of the 14th Section, declaring what Liverymen are to be excluded from Voting at a Common-Hall.

AND it is hereby further Enacted, That no Person or Persons whatsoever, shall from and after, &c. have any Right or Title to Vote at any Election of a Citizen or Citizens to serve in Parliament for the said City, or of any Mayor or other Officer or Officers to be chosen by the Liverymen thereof, who have not been upon the Livery by the Space of twelve Kalendar Months before such Election; and who shall not have paid their respective Livery Fines,

Fines, or who having paid the same, shall have received such Fines back again, in part or all; or shall have had any Allowance in respect thereof.

Number V.

The 7th Section, which Enacts the Qualifications necessary to entitle one to Vote for Aldermen and Common-Council-Men.

Sect. 7. **A**ND whereas divers Controversies and Disputes have arisen in the said City of *London*, touching the Right of Election of Aldermen and Common-Council-Men for the respective Wards of the said City; for quieting all such Disputes and Controversies for the future, it is hereby further Enacted by the Authority aforesaid, That from and after the said first Day of *June*, in the Year of our Lord 1725, the Right of Election of Aldermen and Common-Council-Men for the several and respective Wards of the said City, shall belong and appertain to Freemen of the the said City of *London* being Household-ers, paying Scot, as herein after is mentioned and provided

provided, and bearing Lot, when required, in their several and respective Wards, and to none other whatsoever.

Number VI.

*The 8th and Part of the 10th Proviso,
describing in what manner Householders
are to be entitled to Vote, &c.*

Sect. 8. **P**ROVIDED nevertheless, that the Houses of such Householders be respectively of the true and real Value of ten Pounds a Year at least; and that such Householders be respectively the sole Occupiers of such Houses; and have actually been in Possession respectively of a House of such Value, in the Ward wherein the Election is made, by the Space of twelve Kalendar Months next before such Election. And

Sect. 10. Provided always, That such Householder within the Space aforesaid, shall have been rated or charged, and contributed or paid his Scot to all and singular the Rates and Taxes (other than and except annual Aids granted by Parliament) whereunto the Citizens of *London*, inhabiting therein, are or shall be liable; or shall

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shall have paid in the whole to the said Rates and Taxes, or some of them, except as aforesaid, thirty Shillings a Year at least.

Number VII.

The 9th Provisoe, which ascertains what are the Rules and Taxes to which such Householders ought to pay their Scot.

Sect. 9. **P**ROvided also, and for the better ascertaining what are the Rates and Taxes, to which such Householders ought to contribute and pay their Scot, the same are hereby Declared and Enacted to be, a Rate to the Church; to the Poor; to the Scavenger; to the Orphans; and to the Rates in lieu of or for the Watch and Ward; and to such other annual Rates, as the Citizens of *London*, inhabiting therein, shall hereafter be liable unto, other than and except annual Aids granted or to be granted by Parliament; and in Case any such Householder, within the Space aforesaid, shall have been rated and charged, and contributed and paid his Scot to all the said Rates or Taxes, or thirty Shillings a Year to all, or
some

some of them, except as aforesaid, every such Person shall be deem'd and taken to be a Person paying of Scot.

Number VIII.

The latter Part of the 10th Section, relating to Partners.

AND in Case any two or more Partners carry on a joint Trade in any such House together, and shall have been Householders of such House by such Space of Time, as aforesaid; such Partners shall, paying their Scot in manner aforesaid, and bearing their respective proper Lots, if required, have Votes at the Elections aforesaid; so as such House, wherein such Partners carry on their Trade, be of the true and real yearly Value of as many respective Sums of ten Pounds a Year, computed together, as there are Partners.

Number

Number IX.

The 11th Section relating to several Inhabitants.

PROVIDED also, that where two Persons and no more, not being Partners, shall have by the Space aforesaid, severally inhabited in the same House, such two Persons, severally paying their Scots, and bearing their respective Lots, as aforesaid, shall have Votes at the Election aforesaid; so as such House, wherein such two Persons inhabit, be of the true and real yearly Value of twenty Pounds or upwards; and that each of the said Persons doth pay the yearly Rent of ten Pounds at the least, for his respective part of such House.

Number X.

The latter Part of the 14th Section, declaring the general Disqualifications of Voting at all Elections whatsoever, within the City of London.

AND no Person or Persons whatsoever, shall have any Right to Vote at any Election of a Citizen or Citizens to serve in Parliament;

liament; or of any Mayor, Alderman, or other Officer or Officers of or for the said City, or any the Wards, or Precincts thereof, who have at any time within the Space of two Years next, before such Election or Elections, requested to be, and accordingly have been, discharged from paying to the Rates and Taxes, to which the Citizens of *London*, inhabiting therein, are or shall be liable, as aforesaid, or or any of them; or have within the Space aforesaid, had or received any Alms whatsoever; and the Vote of every such Person shall be void.

Number XI.

The disabling Clause inserted in the Statutes of 9 George II. Chap. 20. Sect. 13. and 10 George II. Chap. 22. Sect. 10. with Regard to the Neglect or Refusal to pay the Lamp or Watch Rates.

AND to the end that the Payment of the said Rates and Assessments for the Purposes aforesaid, may be effectually enforced, be it further Enacted, &c. That every Freeman of *London*, liable to pay the Rates and Assessments

ments as aforesaid, who shall have neglected or refused to pay the said Rates and Assessments to the Person or Persons authorised and empowered to collect and receive the same, (*the same having been lawfully demanded*) [a] or shall have desired to be excused from paying such Rates and Assessments, shall be under the same incapacity of Voting at Elections within the said City of *London*, as any Person or Persons now is or are, who do not pay their Scot and Lot to the several yearly Rates and Taxes, to which the Citizens of *London* are at this time liable.

Number XII.

The Form of a general Objection to be delivered upon a Scrutiny at the Election of an Alderman or Common-Council-Man; to be introduced as followeth.

WE whose Names are here under-written, being nominated to be Scrutineers for and on Behalf of *J. S.* Candidate for the Office of " within the Ward of at a Wardmote held on the Day of and

[a] These Words (*the same having been lawfully demanded*) are not inserted in the Clause of the *Lamp Act*.

and continued by Adjournment for the Purpose of taking and finishing the Election of such Officer, do object against the several Persons who have Poll'd at the said Election for *J. N.* another Candidate for the said Office, for the particular Reasons written against each of their respective Names, *viz.* We object against

A. B. — For that he is not a Freeman of *London*; nor a Householder; nor the sole Occupier of a House; nor hath been actually in the Possession of a House within the said Ward, of the true and real Value of Ten Pounds a Year by the Space of Twelve Kalender Months next before the said Election; and for that he hath not been rated and charged, and contributed and paid, within the Space aforesaid, his Scot to the Rate to the Church; to the Poor; to the Scavenger; to the Orphans; and to the Rate in lieu of and for the Watch and Ward; and to the Rate for Enlightning the Streets of the City of *London*; and to the Rate for the better regulating the Nightly Watch and Beadles within the City of *London* and Liberty thereof; and to such ^{other} annual Rates as the Citizens of *London*, inhabiting therein, are liable unto; or Thirty Shillings a Year to all or some of them; and for that he hath refused

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refused to bear his Lot when required in the said Ward; and for that he hath within the Space of Two Years next before the said Election, requested to be and accordingly has been discharged from paying to the Rates and Taxes, to which the Citizens of *London*, inhabiting therein, are liable unto, or to some, or one of them; and for that he hath within the Time aforesaid had and received Alms. [a]

Number XIII.

The Oath of the Lord Mayor.

YOU shall swear that ye shall serve well and truly our Sovereign Lord King *George* the Second, in the Office of Mayoralty of the City of *London*; and the same City ye shall keep surely and safely unto the Use of our said Sovereign Lord the King and his Heirs, Kings.

[a] In this Objection are included all *Partners* and several *Inhabitants*, as well as *sole* Occupiers of a House; for Partners and several *Inhabitants* being equally oblig'd to be in Possession of a House or Part of a House and charged thereto, should they be deficient in these Points, they must come under the general Implication of not being *Houholders* within the Ward paying *Scot* and bearing *Lot*, &c. Consequently every one of them may be separately objected against. — For that he is not a *Houholder*, &c.

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Kings of *Great Britain*; and the Profit of the King ye shall do in all Things that to you belongeth, and the Right of the King, and that which belongeth unto the Crown, you shall truly keep; you shall not assent unto any Decrease nor Concealment of the Rights nor of the Franchises of the King and there where ye may know the Rights of the King, or of the Crown, be it in Lands, Rents or in Franchises, or in Suits concealed or withdrawn, you shall put your Power to call it again, and if you may not do it, you shall tell it unto the King, or to those of his Council of whom ye shall understand for to be certain that they shall inform the King thereof, and you shall truly and right wisely treat the People of your Bailiwick, and Right you shall do to every Person as well to strange as to privy, to poor as to rich, in that belongeth to you to do, and that for Highness nor for Riches, for Gift, Promise, Favour nor Place, ye shall no Wrong do to any Person, nor to no Man, ye shall the Right let; ye shall not take by which the King shall lose or by which the Right may be letted, and also that you shall set good Keeping upon the Assize of Bread, Wine, Ale, Fish, Flesh, Corn and of all other

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Victuals,

Victuals, and also of Weights and Measures, in the said City, doing fadd and due Execution upon the Defaults that there shall be found, according to all the Statutes thereof made not repealed, and that in all Things to the Mayor of the said City belonging for to be done well and truly ye shall have you and do.

So help you God.

Number XIV.

The Oath of an Alderman.

YE shall swear, that ye shall well and lawfully serve our Sovereign Lord the King in the City of *London* in the Office of Alderman in the Ward of *N——* wherein ye shall be chosen Alderman, and every other Ward whereof ye shall be chosen Alderman hereafter; and lawfully ye shall entreat the People of the same Ward of such Things as to them appertaineth to do for the keeping of the City, and for maintaining of the Peace in the same; and the Lands and Franchises of this City ye shall keep and maintain, within the City and without, after your Wit and Power; and Attendant ye shall be to maintain the Right of Orphans after the Laws and Usages of the same

APPENDIX.

same City; and ready ye shall be to come at the Summons and Warning of the Mayor and Ministers of this City for the Time being, to speed the Assizes, Pleas, and Judgments of the Hustings, and other Needs of this City, if you be not let by the Needs of the King, or by some other reasonable Cause; and good and lawful Counsel ye shall give for such Things as touch the common Profit of the City; and ye shall sell no manner of Victual by Retail, as Bread, Ale, Wine, Flesh, nor Fish, by your Apprentices, Allowes, Servants, ne by any other Way, ne Profit shall ye none take of any such manner of Victual so sold during your Office. The Secrets of this Court ye shall keep, and not disclose any Thing here spoken for the Common-wealth of this City, or that might hurt any Person or Brother of this said Court, unless it be spoken to your Brother or to any other, which in your Conscience and Discretion ye shall think to be for the Common-wealth of this City; and well and lawfully ye shall behave you in the said Office, and in all other Things touching the said City. *As God you help.*

Number XV.

The Oath of the Sheriff.

YE shall swear, That ye shall be good and true unto our Sovereign Lord the King of *England*, and unto his Heirs and Successors, and the Franchise of the City of *London* within and without, ye shall save and maintain to your Power; and ye shall well and lawfully keep the Shires of *London* and *Middlesex*, and the Offices that to the same Shires appertain to be done well and lawfully, ye shall do after your Wit and Power; and Right ye shall do as well to poor as rich, and good Custom you shall none break, ne evil Custom arrere, and the Assize of Bread, Ale, and all other Victuals within the Franchise of this City, and without, well and lawfully ye shall keep, and do to be kept, and the Judgments and Executions of your Court, ye shall not tarry without Cause reasonable; ne Right shall you none disturb. The Writs that to you come touching the State and Franchise of this City, you shall not return, till you have shewed them to the Mayor and the Council of this City for the Time being, and of them have Adviselement; and ready
you

you shall be at reasonable Warning of the Mayor, for keeping of the Peace, and maintaining the State of this City; and all other Things that longen to your Office, and the keeping of the said Shires, lawfully you shall do, by you and yours, and the City you shall keep from Harm after your Power, and the Shire of *Middlesex*; ne the Goal of *Newgate* you shall not let to farm. *As God you help.*

ADDITION.

Ye shall also swear, That ye shall freely give all such Rooms and Offices of Serjeants and Yeomen, as shall happen to become void during the Time ye shall remain in the Office of Shrievalty, to such apt and able Person or Persons, as shall be by you nominated to the Lord Mayor and Court of Aldermen, and by them admitted, without any Money or other Reward, to be had, taken, or hoped for in Respect thereof, according to the Act of Common-Council made and provided in that Behalf, the nine and twentieth Day of *April*, in the six and twentieth Year of the Reign of our Sovereign Lady Queen *Elizabeth*, &c. *As God you help.*

Number XVI.

The Oath of the Common-Council Men.

YE shall swear, That ye shall be true to our Sovereign Lord the King that now is; and readily come when ye be summoned to the Common-Council of this City; unless ye be reasonably excused, and good and true Counsel ye shall give in all Things touching the common Weal of this City, after your Wit and Cunning; and that for Favour of any Man ye shall maintain no singular Profit against the common Profit of this City; and after that ye be come to the Common-Council ye shall not from thence depart, till the Common-Council be ended without reasonable Cause, or else by the Mayor's Licence: And also, That all secret Things that be spoken, or said in the Common-Council, the which ought to be kept secret, ye shall in no wise disclose.

As God you help.

Number

Number XVII.

The Oath of the Lamp-Collectors.

YOU swear, That you will faithfully and diligently ask for, collect and receive the several Rates and Assessments, payable by each Inhabitant of such Preeinct, wherein you are or shall be appointed Collector within this Ward for defraying the Expence of enlightning the same pursuant to the Statute of 9 George II. entitled, An Act for the better enlightning the Streets of *London*, and that you will render and bring in your Accounts to the Alderman of the said Ward of all the several Sums of Money by you received, and give in a List of such Persons as shall have neglected or refused to pay the said Rates and Assessments, according to the Directions of the said Statute. *So help you God.*

Number XVIII.

The Oath of the Constables.

YE shall swear, That ye will keep the Peace of our Sovereign Lord King *George* well and lawfully after your Power, and ye shall

shall arrest all them that make Contest, Riot, Debate, or Affray, in breaking of the said Peace, and lead them to the House or Compter of one of the Sheriffs. If ye be withstood by the Strength of Misdoers ye shall rear on them an Outcry, and pursue them from Street to Street, and from Ward to Ward, till they be arrested, and ye shall search at all Times, when ye be required by the Scavengers or Beadles, the Common Nuisance of your Ward, and the Beadle and Raker ye shall help to rear and gather in their Salary and Quarterage, if ye be thereunto by them required. And if any thing be done within your Ward against the Ordinance of this City, such Defaults, as ye shall find there done, ye shall them present to the Mayor and Ministers of this City. And if ye be letted by any Person or Persons that you may not duly do your Office ye shall certify the Mayor and Council of the City of the Name or Names of him or them that let you. Ye shall also swear, that during the Time ye shall stand in the Office, and occupy the Room of a Constable, ye shall once at least every Month certify, and shew to one of the Clerks of the Mayor's Court, and in the same Court, as well the Names and Sir-names of all Freemen, which ye shall know to be deceased with-

in the Month in the Parish wherein ye be inhabited, as also the Names and Sir-names of all the Children of the said Freemen so deceased, being Orphans of this City. And you shall enquire of all and every of the Offences done contrary to the Statutes made 1st, 4th and 21st of Jac.

I. to restrain the inordinate Haunting and Tippling in Inns and Alehouses, and for suppressing of Drunkenness and other Disorders, and thereof Presentments make according to the same Statutes. Ye shall also do your Endeavour, that the Laws made for Observation of the Lord's Day, and for suppressing of Vagrants, be duly put in Execution. In these and all other Particulars belonging to the Office of a Constable you shall well and diligently perform your Duty to the best of your Knowledge and Power. And thus ye shall not leave to do.

As God you help.

Number XIX.

The Oath of the Scavengers.

YE shall swear, That ye shall diligently oversee that the Pavements within your Ward shall be well and sufficiently repaired and not made too high in Noyfance of your Neighbours; and that the Ways, Streets and Lanes be cleared of Dung and all Manner of Filth

for

for the Cleanliness of this City. And if ye find any of the Defaults aforesaid, which you cannot remove, ye shall shew it to the Alderman of your Ward, so that he may ordain for the Amendment thereof. And thus ye shall do.

As God you help.

Number XX.

*The Oath of the Wardmote Inquest-Men
in their several Precincts.*

YOU, and each of you, do swear, That you will faithfully and diligently enquire, and true Presentment make of all such Nuisances, Misdemeanors, Defaults and Negligences, which you shall find to be committed in the Precinct, to which you belong within this Ward contrary to the Articles of the Charge delivered to you; the King's Counsel, your Companions, and your own, you shall keep secret and undisclosed; you shall present no Man for Envy, Hatred, and Malice, nor spare any Man for Fear, Favour, or Affection, or any Hope or Promise of a Reward, but according to the best of your Knowledge, and the Information you shall receive, you shall present the Truth.

So help you God.

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ERRATA.

- Page 56, in the Note of Reference, for p. 38. read 27.
 Page 56, in the Note of Reference, for p. 37. read 34.
 Page 109, l. 4. for *and then*, read *or then*.
 Page 120, in Case B, for *alldedges*, read *alledging*.
 In the Appendix Number VII. for *Rules*, read *Rates*.

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